SENATE—*Monday, August 6, 1984*

The Senate met at 12 noon and was called to order by the President pro tempore [Mr. THURMOND].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

The Lord is my light and my salvation; whom shall I fear? The Lord is the strength of my life; of whom shall I be afraid?—Psalm 27:1.

Gracious Father in Heaven, this is pressure week. Thank Thee for the objectivity, the fairness, and the patience of the leadership. Give them special wisdom as they guide the Senate through these days. Help the Senate not to be busy rearranging the pictures on the wall while the house is burning down. Help them not to play games with rules and procedures which frustrate and abort good legislation.

Deliver the Senators from personal motivation which would sacrifice the common good. Purge our actions from all that violates truth and righteousness and justice. Grant, O Lord, that out of these days will come decisions which are the best for Nation and world. We pray this in the name of the Righteous One who lived and died for truth and justice. Amen.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

Mr. BAKER. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. BAKER. Mr. President, I am always fascinated, stimulated, and inspired by the Chaplain's prayer. But his litany of things that he wished the Senate to do and refrain from doing reminds me of the old nursery rhyme that, "When she was good, she was very, very good, and when she was bad, she was horrid." That is the way the Senate is. I hope it will be very, very good.

SENATE SCHEDULE

Mr. BAKER. Mr. President, we adjourned on Friday and meet today pursuant to that adjournment and a unanimous-consent agreement that provides for the formalities concurrent with the reconvening of the Senate.

Mr. President, after the two leaders are recognized under the standing order today, there will be a special order in favor of the distinguished Senator from Wisconsin [Mr. PROXMIRE], to be followed by a time for the transaction of routine morning business until 1 o'clock.

At 1 o'clock, Mr. President, we will resume consideration of the unfinished business, which is the Baker motion to waive section 303 of the Budget Act preparatory to the consideration of the agriculture appropriations bill.

Mr. President, at 4 o'clock today, by unanimous consent, there will be 1 hour for further debate on that motion, to be equally divided and controlled by the chairman and ranking member of the Budget Committee.

At 5 o'clock the vote on cloture will occur pursuant to the petition which was filed on Thursday.

Mr. President, the mandatory quorum to precede the vote on cloture was waived by unanimous consent.

Mr. President, it is hoped that cloture will be invoked on that motion and that the motion to waive the Budget Act will be agreed to, in which event the Senate will be asked to turn to the consideration of the agriculture appropriations bill.

If cloture is not invoked, then the debate will continue on the motion itself.

This is the final week before the recess for the Republican National Convention, Mr. President. As the Chaplain pointed out, I guess it is a pressure week, but let me say that it is the intention of the leadership on this side to do as much as we can this week. However, there are two matters that appear to be of major priority.

The first matter is the agriculture appropriations bill, of which I have already spoken.

The second is the supplemental appropriations bill which has now reached us from the House of Representatives and is on the calendar.

Mr. President, the 3-day rule will not expire, I believe, until Wednesday morning. However, it would be my hope that we can dispose of the agriculture appropriations bill today and perhaps the minority leader would consider waiving 1 day of the 3-day rule; perhaps not. Either way, I will understand.

If we can finish the agriculture appropriations bill, I hope we can get to the supplemental appropriations bill tomorrow. I do anticipate, Mr. President, that there will be considerable debate on the supplemental appropriations bill, maybe most of the rest of the week.

I may say parenthetically that I have asked that an adjournment resolution be prepared which will provide for the adjournment over of the Congress on Thursday, Friday, or Saturday of this week, to reconvene on Wednesday, September 5.

Mr. President, that is the outlook as I now perceive it. In the course of today and tomorrow, I will have an opportunity, I am sure, to consult with the minority leader. There will no doubt be other announcements during this day.

Mr. President, if I have any time remaining under the standing order, I offer it to the distinguished minority leader at this time.

Mr. BYRD. Mr. President, I thank the distinguished majority leader for his kind offer. I do not believe I will need it.

Mr. BAKER. In that event, Mr. President, I yield back any time remaining under the standing order.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER [Mr. GORTON]. The minority leader is recognized.

WEST VIRGINIA'S OLYMPIC DREAMS COME TRUE

Mr. BYRD. Mr. President, 1 week ago I took the floor to note that two West Virginians—Mary Lou Retton of Fairmont and Edward Etzel of Morgantown—were beginning their first day of competition at the 1984 summer Olympic games.

Much to the delight of the people of West Virginia and of the United States, the Olympic dreams of those fine athletes have come true.

On Friday, August 3, Mary Lou Retton became the first American ever to win the gold medal in the Olympic all-around gymnastics competition. Strong efforts by excellent Romanian gymnasts elevated the competition to the level of perfection. Ms. Retton faced the daunting prospect of needing a perfect score on her final turn in order to win the gold medal. Millions of people worldwide watched as she overcame the intense pressure and achieved the perfect "10" on the vault—thus winning the gold.

Her fierce determination and her ability to perform flawlessly under terrific pressure mark Mary Lou Retton as an exceptional individual.

On August 5, gymnasts competed in the finals for each apparatus. Ms. Retton won a silver medal in the vault,

bronze medals in the uneven bars and in floor exercise, and placed fourth in the balance beam. Those efforts wrapped up a memorable Olympic games for the remarkable Mary Lou Retton.

West Virginia's master marksman—Edward Etzel—won a gold medal in rifle competition by shooting a near perfect 599 points out of 600. This particular event, known as English match shooting, requires each competitor to fire 60 shots at a 12-millimeter bull's eye from a distance of 55 yards. That is the equivalent of hitting a dime from half the distance of a football field. Telescopic sights are not used in English match shooting, so steadiness of hand and eye are tested to the limit.

Mr. Etzel's score tied the Olympic record in English match shooting. During the American Olympic trials earlier this year, Mr. Etzel tied the world record in this event—a perfect 600. Edward Etzel's sojourn into the realm of perfection makes him one of the legendary sharpshooters of the Mountain State. Mr. President, there have been many sharpshooters in the State of West Virginia.

The 615 athletes of the U.S. Olympic team are representing our country with dignity and courage. Mary Lou Retton and Edward Etzel have made West Virginia and the United States proud by performing with distinction in the Olympic games.

Mr. President, does the Senator from Wisconsin need any additional time? He indicates he does not. Therefore, I yield back the remainder of my time.

RECOGNITION OF SENATOR PROXMIRE

The PRESIDING OFFICER. Under the previous order, the Senator from Wisconsin [Mr. PROXMIRE] is recognized for not to exceed 15 minutes.

CAN WE RELY ON VERIFICATION IN NUCLEAR ARMS TREATIES?

Mr. PROXMIRE. Mr. President, on July 6 of this year, I wrote to Prof. Richard Garwin to solicit his views on the adequacy of the current verification capabilities of the United States with respect to nuclear arms control agreements. Verification lies at the heart of arms control. The administration has repeatedly refused to consider arms control agreements to stop nuclear weapons testing and to end antisatellite activity. Why? They have done so on the ground that we cannot reliably verify such agreements. So I asked the opinion of a highly respected expert, Dr. Richard Garwin.

Who is Richard Garwin? What are his qualifications to advise the Congress on arms control verification? Does Professor Garwin have the technical and practical qualifications to speak with authority on nuclear arms control verification?

Dr. Garwin is a very practical scientist. In fact, he has been director of applied research for IBM at the Watson Research Center. He has been associated with that research center for the past 19 years. Presently, he is a professor of public policy at the Kennedy School at Harvard University and an adjunct professor of physics at Columbia University. He served on the President's Science Advisory Committee in the Kennedy, Johnson, and Nixon administrations. Most pertinent of all, Dr. Garwin served as a member of the U.S. delegation to the negotiations for the prevention of surprise attack in Geneva, Switzerland, in 1958. This group laid the groundwork for further negotiations resulting in the 1963 Limited Test Ban Treaty, the 1967 Nonproliferation Treaty, the SALT I agreement, and the ABM Treaty. Dr. Garwin has frequently testified before congressional committees on national security issues and has won respect for both pragmatism and competence in that testimony.

Now, Mr. President, the administration has expressed reluctance to enter into treaties with the Soviet Union that would stop all nuclear test explosions and that would ban antisatellite research and deployment. Why? They have done so on the ground that we could not verify such treaties. What does Dr. Garwin have to say about the practicality of such verification? Dr. Garwin introduces a critical but easily overlooked principle. It is the principle of military significance. For example, we now have a 150-kiloton limit on the size of underground nuclear weapons test explosions. If we conclude that an explosion exceeding that limit by roughly 30 percent—say a 200-kiloton explosion—would not make any military difference, then we could be content with a verification system that would detect an explosion that exceeded the limit by 5 percent—say a 160-kiloton explosion. The Russians might deliberately or inadvertently test a nuclear device with an explosion of 155 kilotons without our ability to detect that it exceeded the 150-kiloton level. But so what? Since the departure from the 150-kiloton treaty limit would have no military significance, our verification capability would be adequate.

Applying this principle, we can and should confidently negotiate with the Soviet Union for a total ban on all nuclear weapons testing of any kilotonnage. Both the 1963 treaty limiting nuclear weapons testing and the 1974 agreement relating to underground nuclear explosions pledge this country.

We signed those treaties, we ratified that 1963 treaty. We promised, Mr. President, we pledged that we would enter such negotiations.

The Soviet Union has urged this country to negotiate such a limit. Why have we refused to keep our treaty commitments to negotiate for a total and comprehensive stop on all nuclear testing? Such a treaty would do more to stop the arms race than any other action we could take. As the head of the Livermore Lab told President Carter in 1979, it would "perform a frontal lobotomy on nuclear weapons research." That research has given us the power to destroy civilization. It could, if it continues, provide the capacity to destroy mankind and all life on Earth. With every research advance, we come closer to the development of cheaper and ever more powerful nuclear weapons that could be much more easily afforded by many nations and even terrorist groups. As the scientists make those breakthroughs, the prospects of keeping such weapons out of the hands of scores of nations will disappear. So why, in the name of God, do we not keep our word, negotiate a comprehensive end of nuclear weapons testing and thereby to nuclear weapons research? Why do we not slam the door shut?

What does the administration say when we ask them to do just this? They say this country could not verify such an agreement. Mr. President, over the past year or so, I have placed in the record voluminous documentation from our most emminent seismologists arguing that we can, indeed, verify such a flat prohibition on nuclear test explosions. These experts agree that this country can now detect any underground explosion conducted by the Soviet Union that would have any military significance whatsoever. So why not keep the word we pledged in two treaties and promptly negotiate an end to nuclear weapons testing, period?

In his letter to me, Dr. Garwin is especially persuasive in arguing that we can verify an antisatellite treaty with the Soviet Union. In this case, too, the administration has argued that we cannot negotiate such a treaty because it would not be verifiable. Garwin argues:

> The Administration witnesses in support of the Strategic Defense Initiative describe space-based observation and tracking sytems which will follow missiles from the moment of launch through their entire life in space, including detailed observation of the deployment of MIRVs, and the like. If such sensors are conceivable for operations with thousands of simultaneous launches and in background of nuclear explosions and intentional attempts to disable and deceive the sensors, how much sooner would we be able to have capability which the Administration would deem adequate for verifying an ASAT limitations?

Mr. President, in the judgment of this Senator, Dr. Garwin has gone a long way to put to rest the concern which Members of the Congress might understandably have that we can not proceed with arms control because we lack a verification capability. I ask unanimous consent that Dr. Garwin's letter to me of July 26, 1984 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 26, 1984.

Senator WILLIAM PROXMIRE,
Dirksen Senate Office Building,
Washington, DC.

DEAR SENATOR PROXMIRE: Your letter of 07/06/84 asks my views on the adequacy of the current verification capabilities of the United States, their possible improvement, and other related questions. "Adequately verifiable" is a term which has been used by most serious people concerned with national security and arms control, covering a spectrum ranging at both ends far beyond Paul Nitze and myself.

As my testimony for the Senate Armed Services Committee of 04/12/84 makes clear, the formulation of a treaty and concern for its verification are intertwined. For this reason, the treaty I introduced 05/18/83 to the Senate Foreign Relations Committee does not ban possession of ASAT means, but only test and use. Mr. Andropov's offer to destroy "existing ASAT systems on both sides" is welcome, and I would like to see the proof the Soviet Union would offer that their ground-based ASAT has been destroyed, but I would not put that into the treaty.

My letter to Senators on verification of SALT II might be of interest to you. Here I point out that the militarily significant acts are defined, but in order to give timely warning of violation of commitment, additional undertakings are involved, the violation of which would not in itself be militarily significant. Thus, if one's ability to measure something is in the 3% range, and the undertaking is not to change a parameter by more than 5%, one is left with some uncertaintly as to whether a change which has been measured as 6% is really 3% or even 9%. Therefore one cannot say absolutely that the other side is in compliance with the treaty or is not in compliance with the treaty. However, if the militarily significant change is 30%, then it is far better to set the allowable change at 5%, and have "uncertainty in verification" than to set it at 20% in order that one could be very sure that a nation remaining in compliance (changing the parameter by 20% and having observed because of inaccuracy of measurement to have changed it by 23%) should not be falsely accused of exceeding the 30% militarily significant change. Put very simply, if we worry about 30% change, we are far better off with a certainty that the Soviets haven't changed something by 9% than we would be with the certainty that they hadn't changed it by 26%.

Our capability for verification involves some of the most secret and sensitive information and systems in existence. There is a ready tool available to those who for one reason or another oppose a given arms control agreement. They can express concern about verification, in the expectation that proponents of the treaty and government agencies will not be able or willing to provide reassurance as to how the treaty might be verified. Alternatively, they can insist on such strict standards of verifiability (perhaps including on-site inspections, which might not in fact help) in the hope that the treaty will become unacceptable to the other side.

I find it curious that this Administration seems to claim success in negotiations on chemical warfare, when the on-site inspection provisions do not apply (or seem not to apply) to commercial operations within the country.

Furthermore, I have not seen any description of the verification provisions for the INF or START treaties which have been advanced by this Administration, and I wonder whether these verification provisions (if satisfactory to the Administration) might not be considered as a model for verification of the other treaties (Threshold Test Ban, Peaceful Nuclear Explosions, ASAT) which the Administration claims are unverifiable.

One final remark: the Administration (as detailed in my testimony of 04/12/84) claims that a comprehensive ASAT ban is not verifiable and that no lesser verifiable ban has been identified which would be in the national interest. I dispute this, because the Administration has never commented in detail on the draft Treaty which I presented 05/18/83, or even on the Soviet draft treaty of August 1983. But the Administration (primarily Defense Department and other witnesses in support of the Strategic Defense Initiative) describe space-based observation and tracking systems which will follow missiles from the moment of launch through their entire life in space, including detailed observation of the deployment of MIRVs, and the like. If such sensors are conceivable for operations with thousands of simultaneous launches and in a background of nuclear explosions and intentional attempts to disable and deceive the sensors, how much sooner would we be able to have capability which the Administration would deem adequate for verifying an ASAT limitations?

I hope this responds adequately to your question. Still on the ASAT verification question, I enclose an informal speech I gave at MIT last February.

Sincerely yours,

RICHARD L. GARWIN.

EXIMBANK CAPITAL RESTORATION ACT OF 1984

Mr. PROXMIRE. Mr. President, the bill I am sending to the desk requires the Eximbank to maintain a capital base of at least $2 billion.

Capital is expected to decline by $2.2 billion by the end of fiscal 1985. This bill authorizes the appropriation of capital contributions needed to maintain the $2 billion minimum. The advantage of this bill is that it will force the Appropriations Committee and the Congress to pay more attention to the real cost of the Export-Import Bank subsidized lending operation. The Bank has been able to camouflage its losses by drawing down its capital. Otherwise, the Bank will continue to run down its capital to the point where, several years from now, the Congress will be forced to appropriate for a $1 billion or $2 billion capital replenishment. In fact, my bill puts the Bank on a pay-as-you-go basis.

Mr. President, I am increasingly concerned about the recent, rapid erosion of the Export-Import Bank's capital base and believe Congress must take action to halt that deterioration if the Bank is to remain a credible instrument for combating the subsidized financing of exports by foreign governments.

As you know, the Eximbank was originally created in 1934, during the administration of President Franklin Roosevelt, in order to finance trade with the Soviet Union. That administration viewed opening trade relations with the Soviets as an important political objective, but the private market was not willing to finance such trade because the Communist regime had defaulted on the previous tsarist government's World War I debts.

After World War II the Bank was made a wholly owned U.S. Government corporation by the Export-Import Bank Act of 1945. During the early postwar years, when the level of private lending to Europe was viewed as insufficient to prevent economic and consequent political disorder, the Bank was one of the institutions used by our Government to channel money to Europe.

Presently the Bank's principle role is to provide financing support to aid U.S. export sales in most parts of the world. It does this through financing programs that include direct loans, financial guarantees to private lenders, and commercial and political risk insurance. Eximbank does not receive appropriated funds. It originally received $1 billion in capital from the Treasury and uses mainly Federal financial bank borrowings to sustain its lending operations.

During the first 32 years of its existence (1934–66) the Bank ran a rather profitable operation as it was able to charge more interest on loans than it paid for its borrowings. As a consequence it was able to pay over $1 billion in dividends to the Treasury, while also building its reserves through the retention of earnings. Since 1966, however, the Bank has generally had a negative spread between the average interest rate on its loan portfolio and the average rate on outstanding debt. Still the Bank was able to show a profit each year until 1982 because the earnings on its reserves and original capital were sufficient to offset losses due to the negative spread.

The General Accounting Office [GAO] annually examines the Eximbank's financial statements. Beginning in 1975, the GAO began expressing concerns about the adequacy of the Bank's capital reserve in light of its declining income. In its 1980 report, the GAO stated that because "the Bank's accumulated income is also its reserve against loan defaults and

claims, it cannot use accumulated income to subsidize its lending rates and to absorb such losses without jeopardizing the adequacy of its reserves." Reporting in 1981, the year the Eximbank's capital base peaked at $3.2 billion before beginning a rapid decline, the GAO stated that although that base was sufficient to cover loan losses resulting from borrowers who were facing financial difficulties, it was not adequate to cover possible losses on loans and guarantees that had not yet matured. GAO noted that the Department of the Treasury shared its concern over the adequacy of the Bank's reserve.

Since 1981 the capacity of the Eximbank's capital base to absorb potential losses has been further reduced because:

First, increased lending operations have not been accompanied by corresponding increases in income to its reserve for contingencies and defaults;

Second, risk of incurring future losses on delinquent loans and obligations has increased; and

Third, lending below the costs of funds has resulted in operating losses since 1982 and these losses are projected by the Bank to extend to at least 1990.

These developments demonstrate that the concerns GAO expressed in 1980 were well founded. Despite the increased risk of losses from Eximbank's expanding loan portfolio, the Bank's capital reserve has declined rapidly because of continued concessionary lending in the face of historically high interest rates. Earnings on the Bank's reserve and capital are no longer sufficient to offset the widening negative interest rate spreads on outstanding debt and loan investments. The annual losses are eating up the Bank's capital base.

In February 1984, the Banking Committee held hearings on the nomination of John A. Bohn, Jr., to be Vice Chairman of the Bank. At that hearing Mr. Bohn noted his own concern over annual losses of money by the Bank. He said that it was simply impossible for the Bank to be credible internationally if it continued to run red ink over a long period of time. But many in Congress want the Bank to be credible, particularly insofar as it is used as our instrument for fighting subsidized financing employed by many competing trading nations.

Another recent event that has raised my concerns about the Bank's credibility was GAO's April 1984 report that said the Bank's total equity base was $1 to $1.5 billion less than shown on the Bank's books due to the uncollectibility of loans made by the Bank. This would mean the Bank's total capital base was really only between $1.3 and $1.8 billion as of September 31, 1983, instead of the $2.8 billion shown on the Bank's books.

Even if, for the sake of argument, the Bank and not its GAO auditor is correct in assessing the Bank's equity position at $2.8 billion, and not a billion or more less, there is still cause for concern. Since its equity position peaked at $3.2 billion in 1981, the Bank has lost money rapidly. According to the President's own budget, the Bank expects to lose another $295 million in fiscal year 1984 and $318 million in fiscal year 1985. This will bring the Bank's total capital down to $2.2 billion by 1985, using the Bank's own accounting method, and probably a lot lower if we apply methods used by its GAO auditor.

During 1983, when passing the increase in our country's contribution to the IMF, Congress expressed concern over the possibilities of a banking crisis. To head off such a possibility, Congress directed Federal banking agencies to require banks to maintain adequate capital levels and to set up special reserves for certain types of international loans, among them those loans for which there were no definite prospects for the orderly restoration of debt service. Since then, the FDIC, Comptroller, and Federal Reserve have taken action to require the banks they regulate to increase the ratio of their capital and reserves in relation to bank exposures.

One must contrast Congress' action in relation to commercial banks with what is happening at the Export-Import Bank. At that institution the Bank's exposure is increasing, its annual losses are accelerating, and its equity position is deteriorating. As the Bank's Vice Chairman suggested in February, this makes the Bank a less credible institution for combating export subsidies of our trading rivals.

To ensure that the Congress has an opportunity to prevent the Bank's equity position from deteriorating below a level at which the Bank would lose its credibility as an independent institution, I am sponsoring the Eximbank Capital Restoration Act of 1984. This bill simply requires the Bank to maintain a minimum capital base of $2 billion. Should the Bank's capital threaten to dip below this minimum, the Bank is authorized to seek an appropriation in order to maintain the capital base at the required minimum.

If the Bank continues to maintain losses in the $200 to $300 million range over the next several years, it will eventually completely erode its capital base. At the same time, the Bank continues to increase its outstanding commitments. Such a situation impairs the credibility of the Bank as a viable institution and sets up a situation that could require a massive bailout by the Congress. For although the Bank is an independent corporate agency of the United States, its commitments are guaranteed by the full faith and credit of the Federal Government. Since recent and projected developments at the Bank ensure that Congress will sooner or later be forced to cover the Bank's losses, we might as well do it sooner and avoid the inevitable trauma of a last-minute rescue package. In that way, the Appropriations Committee and this Congress can maintain closer surveillance of the Bank's operations and hopefully, assist it in its efforts to regain fiscal solvency.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Eximbank Capital Restoration Act of 1984".

SEC. 2. The Export-Import Bank Act of 1945 is amended by adding at the end thereof the following new section:

"SEC. 15. The Bank shall maintain at all times a minimum level of capital stock and retained earnings in an amount not less than $2,000,000,000. There is hereby authorized to be appropriated such sums as may be necessary to enable the Bank to comply with the requirements of this section."

TORTURE AND GENOCIDE—BOTH ARE INDISPUTABLY WRONG

Mr. PROXMIRE. Mr. President, according to internationally recognized nongovernmental and intergovernmental human rights organizations, more than 60 countries use systematic torture. That's a hard statistic to understand in terms of human suffering, but it means that there is evidence of pain being inflicted upon citizens—people like you and me.

We are fortunate here in the United States. U.S. law prohibits the use of torture, and the idea of torture as an acceptable Government tactic is morally repugnant to Americans. Unfortunately, as Amnesty International reports:

> While governments universally and collectively condemn torture, more than a third of the world's governments have used or tolerated torture or ill-treatment of prisoners in the 1980's.

On June 26, Senator PERCY introduced a joint resolution to this Senate. The resolution, Senate Joint Resolution 320, clearly places the U.S. Government in opposition to the practice of torture by any foreign government, regardless of where the act of torture occurs, and exclusive of ideological considerations. I support this legislation. I support it because it solidifies the United States place in the pro-human-rights camp. It simply states that we are against torture, for any reason.

The text of the resolution points out another benefit from stating our opposition to torture. The bill reads:

The good will of the peoples of the world towards the United States can be increased when the United States Government distances itself from the practice of torture by governments friendly to the United States.

Just as we should not condone the behavior of a friend who shoplifts, or drives while drunk, we should not let those governments that practice torture go uncensured.

I must add now, that though I applaud this resolution, and I believe that it is all very well and good to come out so clearly against torture, there are other actions that can be taken by this body to help ensure that human rights don't take the back seat. One such action should be the ratification of the Genocide convention. By ratifying the convention, we will clearly be saying that the United States is against racial, religious, or ethnic genocide, wherever and whenever it occurs. Why not get this statement on the record?

Why not ratify the Genocide Convention?

Mr. President, I yield the floor.

ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business not to extend beyond 1 p.m. with statements therein limited to 5 minutes each.

HIROSHIMA ANNIVERSARY

Mr. BYRD. Mr. President, today is the 39th anniversary of the bombing of Hiroshima. Anniversaries provide an occasion to look back and reassess. In an excellent editorial piece in today's Baltimore Sun, our colleague, Senator MATHIAS, shares his memories of visiting Hiroshima about 1 month after the blast that reduced that city to cinders. He admonishes us to learn the right lessons from that experience. Bringing his own experience and his solid understanding of foreign policy to bear on this occasion, Senator MATHIAS encourages us to learn the right lessons from Hiroshima.

In particular, he encourages the President to support ratification of the 1974 Threshold Test Ban Treaty and the 1976 Peaceful Nuclear Explosions Treaty. These important treaties have languished in the Foreign Relations Committee while the administration has trumpeted its commitment to verifiable arms control.

I ask unanimous consent that Senator MATHIAS' article entitled "Sources of Hope" be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

SOURCES OF HOPE

(By Charles McC. Mathias, Jr.)

Thirty-nine years ago today a B-29 Superfortress, the Enola Gay, took off from Tinian Island in the Philippine Sea enroute to the city of Hiroshima. At 8:16 a.m., August 6, 1945, the Enola Gay dropped an atomic bomb that exploded 2,000 feet above the industrial section of the city. The result was a revolution not only in warfare but for the entire world. The nuclear age had begun.

About a month later as a naval officer, I walked through the atomic ashes of Hiroshima. I can never forget that experience. The entire city was leveled. As I approached the edges of the city, the first evidence of the bombing was apparent. Window panes were out, doors blown off hinges, and as I continued toward the center of the city, the damage got progressively worse. Finally, near the epicenter, everything was destroyed. What had been a populous urban center was as flat as a Kansas wheat field.

It seems to me that the appropriate way to observe the anniversary of the Hiroshima bombing is by trying to learn the right lessons of Hiroshima. Hiroshima and Nagasaki should stand out in human history as the only cities where in all of time, in all of history, a nuclear attack took place. The best way to translate that lesson into reality is to work for nuclear arms control.

Yet today, as we observe the anniversary of Hiroshima, it is particularly disquieting that the relationship between the world's two nuclear superpowers, the United States and the Soviet Union, has deteriorated to its lowest point in recent memory. We cannot afford it. The stakes are too high.

We must display our readiness to work with the Soviet Union to reduce and ultimately eliminate the scourge of nuclear weapons from the face of the earth.

We have the means to show this readiness.

Since 1978, two treaties, each signed by the United States and the Soviet Union, have been before the Senate Foreign Relations Committee. They are the 1974 Threshold Test Ban (TTB) and 1976 Peaceful Nuclear Explosions (PNE) Treaties. Our obvious first step toward improving arms control prospects is to press for immediate ratification of these treaties.

The TTB Treaty prohibits underground nuclear tests with a yield of more than 150 kilotons. The PNE Treaty for the first time provides for on-site inspection of testing areas. This is particularly important because the Soviet Union has traditionally opposed on-site inspection. Ratification of the PNE Treaty would be the first step toward securing Soviet acceptance of the concept of on-site inspection as an aspect of any arms agreement. Both are in our national interest, yet they languish in a kind of legislative limbo.

At any time, by offering its advice and consent, the Foreign Relations Committee and full Senate could easily perform their constitutional roles in the ratification process. A Senate "dress rehearsal" has, in fact, already been held. On June 20, the Senate adopted an amendment to the Defense Authorization Bill calling for presidential consent to ratification of the two treaties. Senator Edward Kennedy and I offered that amendment which was adopted, 77-22, demonstrating that the two-thirds necessary for consent to ratification can easily be mustered.

The success of the Mathias-Kennedy amendment encourages me to hope that the administration will drop its opposition to the TTB and PNE treaties, and resume Comprehensive Test Ban (CTB) talks. If it does not, the Senate could on its own call up the TTB and PNE Treaties for immediate consent to ratification. Calling up the treaties for consideration now, however, would invite confrontation with the executive branch. And once the Senate surrenders possession of the TTB and PNE Treaties, it can never get them back. The treaty process calls for the advice and consent of the Senate before an agreement is returned to the president for ratification. Once a treaty has been returned to the White House, the Senate has no further role to play. However, the risk of losing the treaties that way seems to me less dangerous than doing nothing at all.

The people of the world—especially on an anniversary of this kind—look to the United States for leadership in the field of arms control. We must not fail them. We must demonstrate our determination to reduce the risk of nuclear war, and there is no better way to do that than by ratification of the Threshold Test Ban and Peaceful Nuclear Explosions Treaties.

THE CROSS-FLORIDA BARGE CANAL

Mrs. HAWKINS. Mr. President, the Cross-Florida Barge Canal has been the focus of controversy for many years. There has been legislation pending to deauthorize the project for the past 3 years, and the House of Representatives narrowly defeated a deauthorization amendment last month. I have opposed the deauthorization legislation, for reasons I will explain shortly, and I believe that my opposition is well-founded.

At the same time, I am strongly opposed to construction of the canal. It would clearly be an environmental disaster to Florida, threatening both the quality and the very availability of water in the northern portion of the State. Even if construction should be somehow determined to be economically viable, the environmental problems make the canal totally unacceptable to me and the majority of Floridians.

We are also seeing the evolution of a totally unsatisfactory situation in Florida, where the former owners of canal right-of-way lands are successfully suing in State courts for return of that land, on the grounds that Congress has effectively abandoned the canal project by not appropriating funds for construction.

The project has developed valuable public recreation areas at both the eastern end—Lake Ocklawaha—and the western end—Lake Rousseau and the canal to the Gulf of Mexico—of the right of way. These areas, and possibly the beautiful Ocklawaha River Valley as well, are threatened by these suits.

The possible loss of the public benefits from these areas makes some action by the Congress necessary.

Since there are extensive costs and risks associated with deauthorization, and since there is good reason to believe the House will not accept such a proposal in any case, it seems clear that some alternative is needed.

I have introduced legislation which I hope will represent an alternative acceptable to all sides.

By way of background, I would point out that the Florida Legislature passed legislation in 1979 to provide for the disposition of the right-of-way in the event Congress deauthorized the canal. This provided that the land around Ocala National Forest would be sold to the Forest Service, that the State would decide whether to drain or retain Lake Ocklawaha and the Lake Rousseau/canal segment, and that the central portion of the right-of-way would be sold, with the funds going to reimburse those counties which had contributed to the canal project.

Legislation was introduced in Congress to deauthorize the canal in accordance with the State law. I objected to that because I was not convinced that either the State law or the pending bills provided adequate protection for the public recreational areas, in that they would not prevent substantial portions of the Lake Ocklawaha area from reverting to private ownership. I was also opposed to draining the lake.

I have conducted extensive correspondence with State officials on this matter, and never received what I considered to be a satisfactory response to my concerns. I accordingly was never prepared to support deauthorization.

My basic concern is that a significant portion of Lake Ocklawaha and the immediately surrounding area is held only by easement, not in fee simple title. The State law proposed to sell those easements to the Forest Service, along with land owned in fee simple, for recreational and conservation purposes. I did not believe this was legally possible.

Subsequent contact with the American Law Division of the Library of Congress confirmed my belief. By the basic tenets of property law, which in turn are derived from the constitutional right of property ownership and are thus not subject to legislative alteration, an easement is valid only for the purpose for which it is obtained. Thus, upon deauthorization of the canal, nearly 40 percent of Lake Ocklawaha and the surrounding lake frontage would automatically revert to private ownership, free of any public claim on the taxpayer-financed lake.

This is totally unacceptable to me.

In June of this year, apparently in recognition of the faults of the existing State law, the Governor signed a new law which extensively revised the deauthorization procedures. It authorizes the State to attempt to condemn the easement lands at Lake Ocklawaha, and to sell or trade them, along with the land in the area owned by the canal authority, to the Forest Service, at current market value. It also provides a priority to the counties in whose boundaries the land is, and to former property owners, in the disposition of the central right-of-way lands.

This means, in essence, that the State—implicitly recognizing that it will lose control of the easement lands upon deauthorization—will attempt to condemn these lands, for which it would be required to pay current market value if successful, in order to turn around and sell them to the Federal Government, also at current market value.

This land has already been the subject of extensive litigation, and the Florida Supreme Court has already refused to grant the State fee simple title on it for canal purposes. I accordingly believe it cannot be taken for granted that courts would approve condemnation for the sole purpose of selling the land to the Federal Government, particularly inasmuch as the Federal Government has power on its own to acquire the land if it so desires.

Deauthorization thus poses a considerable, and I believe unacceptable, risk of still losing a major portion of Lake Ocklawaha to private ownership.

Equally unacceptable, in my judgment, is the fact that the taxpayers would be essentially required to pay for Lake Ocklawaha twice. The lake was created totally through Federal funds, provided by the taxpayers, and we are now being asked to turn around and buy it back again from the State of Florida and from the original property owners in the region. Given that much, if not most, of the current market value of the land derives from the presence of the lake, we would be faced with an outrageous raid on the Public Treasury if the project were deauthorized and the State law were to work as intended.

I see absolutely no reason why the taxpayers should have to purchase Lake Ocklawaha when whey paid for its creation in the first place. And I see no reason to take the risks involved with losing public control over the land there and then attempting to recover it.

In contrast to this, my proposal would have the Corps of Engineers assume management of the entire right of way. The bill provides authority for the corps to take the land if necessary, but I would strongly hope that the State of Florida, in the interests of resolving this matter and avoiding unnecessary expenditures, would voluntarily enter into some sort of cooperative agreement with the corps providing for corps management of the land while the State retains ownership of those areas which it currently owns. Easements could be transferred to the corps, since the State has no other claim on those lands.

The Corps of Engineers would in turn assume the responsibility of defending the right-of-way against all present and future suits seeking reversion of land to private ownership, or on any other matter. The bill also contains a series of congressional declarations and findings making the point that only Congress may determine whether a Federal project is deauthorized or not. I would anticipate that the courts would defer to such an express statement of congressional intent, and that this would end the threat of loss of canal lands via lawsuits.

The bill directs the Corps of Engineers to manage the two existing lakes and canals, and the Ocklawaha River valley, for recreational and fish and wildlife management purposes. The corps is authorized to lease the central right-of-way lands to the counties in whose jurisdiction the land is for recreational, conservation, or park purposes, and to original owners, for those or agricultural purposes, for $1 per year; and any lands not so leased to the general public for agricultural purposes for current value. This is as close as I can come to accommodating the expressed desire of the legislature and existing practice on these lands without deauthorizing the projects, which I am unwilling to do for the reasons noted previously.

The bill also requires that in the very unlikely event that new construction funds would ever be appropriated, there would have to be a new environmental impact statement, and a finding of "no significant adverse impact" before the money could be spent.

Given this requirement, the fact that the State could retain ownership of its right-of-way lands, and the firm opposition of both Florida Senators to any new construction, I believe that the bill offers no chance whatever of providing for construction of the canal.

What it does do is protect the public interest in Lake Ocklawaha, where there are over 400,000 visitations yearly, mostly for fishing, and in Lake Rousseau and its canal, which permits several thousand trips by boaters annually from the lake to the Gulf of Mexico. It does this without any environmental risks, and without the waste of tax moneys.

The highly complex legal situation which has evolved over the years around the canal makes it necessary for this legislation to be equally complex; one might be justified to even use the term "convoluted." Yet I believe it solves most of the major problems associated with the situation, and that it does so as fairly as is possible without a considerable expenditure of Federal tax funds.

I hope that both the proponents and opponents of deauthorization will accept this in the spirit of compromise in which it is offered, and that we could proceed to a prompt resolution of the matter.

Mr. President, I ask unanimous consent that the text of my bill, S. 2902, be printed in the RECORD.

There being no objection, the text of the bill was ordered to be printed in the RECORD, as follows:

S. 2902

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress finds and declares that—

(1) although it is not currently desirable, in light of the financial problems facing the Federal Government, to continue construction of the Cross Florida Barge Canal, authorized by the Act of July 23, 1942 (56 Stat. 703), the possibility of resumption of construction, or other disposition of the project, should not be foreclosed without a specific decision of the Congress;

(2) more than $70,000,000 in Federal funds have been expended on Construction of the Cross Florida Barge Canal project to date;

(3) completed portions of the Canal provide valuable recreational benefits to the public, and the habitat for fish and wildlife, including endangered and threatened species;

(4) property in and near the authorized right-of-way for the Canal project has substantially increased in value as a result of Federal expenditures for construction of the Canal;

(5) the continued viability of the project, and the retention of the public benefits noted in this section, is threatened by actions of the State courts in ordering reversion to the original owners of lands and interests in lands in the Canal right-of-way which are controlled by the State of Florida;

(6) existing State law does not appear adequate to protect the public benefits and interests involved in the Canal project; and

(7) accordingly, action by the Congress to protect such benefits and the public interest is necessary.

SEC. 2. (a) Except as provided in subsection (b), the authorization for the Cross Florida Barge Canal contained in the Act of July 23, 1942 (56 Stat. 703) is amended to authorize and direct the Secretary of the Army, acting through the Chief of Engineers, to acquire the right-of-way lands, or interests in such lands, which would be required for use in connection with the Cross Florida Barge Canal and shall utilize the completed portions of the Canal and the Ocklawaha River Valley for recreational purposes and fish and wildlife management and enhancement prior to the need for such lands for the navigational features of the project.

(b)(1) Notwithstanding the provisions of subsection (a), the Secretary of the Army—

(A) shall not operate Eurika Lock and Dam in such a fashion as to flood any land not flooded on January 1, 1984; and

(B) may lease any land not utilized for recreational or fish and wildlife management purposes for agricultural, recreational, or fish and wildlife management purposes until such land may be needed for the navigational features of the project, and if such lease shall be to a unit of local government in whose boundaries such land lies, or to the person from whom the property was originally acquired, such lease shall be for $1 per year.

(2) No funds appropriated for resumption of construction of the Canal may be obligated unless and until the Secretary of the Army completes an environmental impact statement after the date of such appropriation which finds no significant adverse environmental impact likely to result from construction of the Canal.

SEC. 3. Upon agreement with the State of Florida, the United States shall defend any legal proceedings brought against the lands or interests in lands held in the right of way for the Cross Florida Barge Canal.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

SOLID WASTE DISPOSAL ACT AMENDMENTS OF 1984

Mr. SIMPSON. Mr. President, on July 25, the Senate considered and passed the Solid Waste Disposal Act Amendments of 1984. This legislation represents a major step for this country in our efforts to address the issue of how we are to handle and dispose of toxic chemical wastes in a safe, effective, and efficient manner, and the Senate is to be commended for the leadership that it has demonstrated. After extensive hearings and long, arduous markups, the Environment and Public Works Committee was able to reach consensus on a broad range of controversial and oftentimes emotion-laden issues—a true tribute to the bipartisan manner in which this committee has approached all environmental issues, and the steady leadership that has been demonstrated by our chairman, Senator STAFFORD, by my friend Senator JOHN CHAFEE, and our greatly respected ranking minority member, Senator RANDOLPH.

Yet it has come to my attention that shortly following passage of this important legislation a further clarification was offered on precisely what was supposed to be intended by the Senate with respect to a wide range of issues related to this legislation, and, in particular, with respect to the intent of the Committee on Environment and Public Works when it drafted and reported the legislation and the various amendments that were before the Senate last week.

Because of the unfortunate confusion generated by the statements that were made following passage of this legislation, I should like to take this opportunity, Mr. President, to comment on the issues that have been raised.

Of particular concern to me, Mr. President, in my role as chairman of the Subcommittee on Nuclear Regulation of the Environment and Public Works Committee, are the statements that have been made on page 20811 of the CONGRESSIONAL RECORD on the subject of mixed waste.

Briefly, Mr. President, questions have been raised with respect to whether the Environmental Protection Agency is authorized under the Solid Waste Disposal Act, as amended, to regulate waste streams which include both radioactive materials—which are subject to the jurisdiction of either the Nuclear Regulatory Commission or the Department of Energy pursuant to the Atomic Energy Act, and are exempt from the requirements of the Solid Waste Disposal Act—and nonradioactive materials, which, but for their presence in a radioactive waste stream, would otherwise be subject to regulation under the Solid Waste Disposal Act.

To the very best of my recollection, and that of my staff, Mr. President, the subject of mixed waste was not ever considered in the course of developing S. 757, nor was it addressed with the Senate took up this legislation on July 25. The bill reported to the full Senate by the Committee on Environment and Public Works includes no provisions whatever that I am aware of that add to or modify the provisions of the existing law with respect to the mixed waste issue.

Indeed, the existing law, together with the supporting legislative history, appears to provide a very clear and definitive directive on the question of just how mixed waste should be handled. Section 1004(27) specifically excludes all source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 from regulation under the Solid Waste Disposal Act, as amended. As I read this provision, the mere presence of other hazardous materials in a waste stream that is primarily composed of radioactive materials, measured either by volume or by risk posed, is not a sufficient basis upon which to assert regulatory authority under the Solid Waste Disposal Act, and to regulate, as a de facto matter, a radioactive waste stream that will, in many instances, include small quantities of hazardous materials. It strains credibility to interpret this phrase, as some have suggested, to mean that the mere presence of certain hazardous substances in a waste stream that is otherwise primarily made up of source, special nuclear, or byproduct materials, since this would have the effect of rendering this particular exemption in section 1004(27) a nullity, which action would effectively extend the requirements of the Solid Waste Disposal Act, as amended, to virtually all radioactive waste streams.

Indeed, in all but the most exceptional cases, the regulatory program established by the Nuclear Regulatory Commission [or DOE], is fully capable of addressing the unique factors associated with radioactive materials and for providing a level of protection of

human health and safety consistent with EPA's RCRA regulations, without the need for the unnecessarily burdensome and overlapping requirements that would result if those RCRA requirements were applied in each and every instance where radioactive materials regulated by the NRC or DOE also happen to include nonradioactive materials subject to regulation under RCRA.

The Solid Waste Disposal Act further provides for the exceptional case where the facts warrant considering the application of certain requirements of the Solid Waste Disposal Act to activities or substances that are subject to the Atomic Energy Act of 1954. Section 1006(a) provides that—

Nothing in this act shall be construed to apply to . . . any activity or substance which is subject to . . . the Atomic Energy Act of 1954, except to the extent that such application is not inconsistent with the requirements of such act.

As I read this provision, the application of Solid Waste Disposal Act requirements to activities or substances that are subject to the Atomic Energy Act was contemplated by Congress to be the exception, rather than the rule. Indeed, the opening phrase, "nothing in this act shall be construed to apply," sets a very clear tone for the approach that Congress intended under this provision. The presumption of this particular provision is in favor of regulation by the Nuclear Regulatory Commission, or the Department of Energy, of all activities and substances that are subject to the Atomic Energy Act. If, in certain isolated cases, it appears desirable for EPA to consider applying requirements of the Solid Waste Disposal Act, or NRC, or DOE regulated facilities or substances, this provision allows EPA to apply only those requirements that are consistent with the requirements of the Atomic Energy Act. And moreover, since this provision calls for a judgment on whether a particular approach is consistent with the Atomic Energy Act—the NRC's and DOE's basic organic authority—I read this provision to vest the final decisionmaking authority in the Commission or DOE, as appropriate.

I should also emphasize, Mr. President, that the very language of this provision—"that such application is not inconsistent with the requirements of such acts"—contemplates more than a demonstration of mere physical impossibility as a justification by the NRC or DOE, for not agreeing to the application of any of the provisions of the Solid Waste Disposal Act. Indeed, I can envision a wide range of situations where compliance would not be a physical impossibility, but would nevertheless be inconsistent with the requirements of the Atomic Energy Act. Regulation of NRC-licensed facilities or substances or DOE facilities or substances, by States, for example—an approach that RCRA would otherwise contemplate for hazardous substances—is an issue on which the Atomic Energy Act takes a fundamentally different—and inconsistent—approach. Indeed, as I understand the Solid Waste Disposal Act and the Atomic Energy Act, the level of protection contemplated by the two acts may be fundamentally different—and perhaps inconsistent—if the Solid Waste Disposal Act does, indeed, contemplate a standard of no migration of certain hazardous substances.

In areas such as these, section 1006 contemplates a judgment by the Commission or DOE, as to whether the imposition of any of the provisions of the Solid Waste Disposal Act would be inconsistent with the requirements of the Atomic Energy Act.

I would hunch, Mr. President, that the instances of such inconsistency may be even more frequent than has been suggested by some of my colleagues. In fact, in the one area in which NRC and NRC licensees have examined the requirements of the Solid Waste Disposal Act in some detail—low-level radioactive waste disposal—it now appears that there are, indeed, just the kind of inconsistencies that section 1006 refers to. I would ask unanimous consent, Mr. President, to insert in the RECORD at this point, responses of the Nuclear Regulatory Commission to a series of questions on this very subject.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S., NUCLEAR
REGULATORY COMMISSION,
Washington, DC, March 16, 1984.

Hon. MORRIS K. UDALL,
Chairman, Subcommittee on Energy and the Environment, Committee on Interior and Insular Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Enclosed are our responses to the questions contained in your letter of November 29, 1983 concerning the orderly development of low-level radioactive waste disposal sites under interstate compacts .

Sincerely,

NUNZIO J. PALLADINO.

Enclosures as stated.

RESPONSES TO QUESTIONS FROM THE SUBCOMMITTEE ON ENERGY AND ENVIRONMENT, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS

Question 9. What are the differences in requirements between RCRA and AEA regulation of waste burial grounds which impact compliance by licensees or permittees? Can both sets of standards be complied with simultaneously? Should both sets of standards be complied with simultaneously? Please provide an analysis of specific compliance requirements, addressing at a minimum the following issues:

(A) RCRA regulation and AEA regulation require different systems for minimizing of leachate formation and groundwater contamination. Which should take precedence: EPA's requirement of synthetic liners with leachate collection and removal systems, or NRC's discouragement of leachate collection systems, emphasizing site characteristics and waste packaging?

(B) Should the treatment, storage, and disposal facilities bear responsibility for waste analysis and characterization, as is the case under RCRA, or should the generator bear this responsibility, as is the case under the AEA?

(C) Discuss how imposition of RCRA regulations on radioactive waste should be adjusted to adapt to worker exposure and environmental exposure to radiation resulting from chemical analysis, inspection and sampling through opening of containers, and pumping, treatment and redisposal of potentially contaminated leachate.

(D) Will storage permit requirements under RCRA be imposed on generators of radioactively contaminated chemicals, including hospitals, medical research facilities, and universities, which are now exempt from storage requirements for such wastes?

(E) Under the pending RCRA reauthorization, many organic wastes would be prohibited from landfill disposal. Does suitable capacity exist for treatment and disposal of affected organic wastes which are radioactively contamined.

(F) Will post-closure financial responsibility requirements be applied to radioactive wastes regulated under RCRA?

Answer. There are a number of differences in requirements between EPA and NRC waste disposal regulations which impact compliance by licensees or permittees. The differences are such that we believe it will be extremely difficult if not impossible for the two requirements to be complied with simultaneously. Since the two sets of requirements reflect differences in the types of processes generating the waste, as well as the expected physical and chemical characteristics of the waste, we do not believe that both sets of standards should be complied with simultaneously.

Before addressing the specific issues you have raised under paragraphs (A) through (F) of this question, the following background might be useful in clarifying some overall philosophical and legal differences between the two agencies, as well as some major differences in waste characteristics.

BACKGROUND

NRC has emphasized a systems approach to low-level waste disposal, including consideration of site selection, site design and operation, waste form, and disposal facility closure. In addition to focusing on disposal site performance, NRC has specified a number of requirements which must be accomplished by the waste generator, including requirements for waste form and content, waste classification, and waste manifest. This emphasis on the waste generator is possible because almost all of the activities generating low-level radioactive waste are licensed by either NRC or Agreement States. In addition, NRC's low-level waste disposal regulation, 10 CFR Part 61, in large part takes a performance objective approach, in which the overall goals of waste disposal are stated, and then considerable flexibility is maintained in how these performance objectives may be achieved. We expect that only a small number of new disposal sites will be licensed by the year 2000, and the specific manner in which a particular disposal facility will be designed and operated can be worked out for each site as part of a detailed license review application. Finally, almost all of the waste disposed of in a low-level waste site, if it were not con-

taminated with radioactivity, could be safely disposed of in a sanitary landfill. Part 61 regulations, as well as license conditions at existing operating disposal facilities, prohibit the disposal of wastes with chemically reactive or other characteristics that are generally used to identify hazardous wastes. Of the waste that contains both hazardous material and radioactive material licensed under AEA, almost all consists of scintillation liquids. These scintillation liquids are generated as part of chemical and biological research activities by hospitals and research organizations.

EPA, on the other hand, has followed a more prescriptive approach in regulating hazardous waste disposal operations, and less attention is focused on the waste generator. In this regard, it may be noted that while a waste generator must notify EPA that he is generating hazardous waste, the specific activities generating the waste are not licensed under RCRA. The overall objectives that must be achieved in hazardous waste disposal are stated, but the RCRA regulations also go on to prescribe certain site design and operation requirements that are intended to ensure that the overall objectives are met. We believe that this greater degree of prescriptiveness in meeting the EPA regulations is at least in part due to the provisions of RCRA and to the large number of hazardous waste facility permits that EPA will need to process. Less time in permit application review can be anticipated under the EPA approach. Also, Section 3004 of RCRA requires that the standards for owners and operators of waste treatment, storage and disposal facilities must, among other things, include requirements for treatment, storage or disposal "pursuant to such operating methods, techniques and practices as may be satisfactory to the Administrator."

Finally, the wastes disposed of in hazardous waste sites are much more chemically reactive than low-level waste, as well as being more difficult to characterize. These wastes may contain corrosive liquids, for example, that would be prohibited at an LLW site.

SPECIFIC ISSUES

Our responses are provided in the order given in the letter.

(A) We believe that the choice of a particular approach to minimizing leachate formation and groundwater contamination involves legal, policy, and technical considerations which differ for hazardous and low-level radioactive waste disposal. We did not participate in EPA's analysis of hazardous waste disposal and have not formed a position on EPA's use of synthetic liners and leachate detection and removal systems at hazardous waste facilities. For low-level waste disposal, however, we believe that the overall approach adopted in the Part 61 regulation is most suitable.

(B) We believe for low-level radioactive waste disposal, the waste generator should generally bear responsibility for waste analysis and characterization. This is because the waste generator has control over the process generating the waste and also because of our concerns regarding the possibility of excessive personnel exposures at low-level waste sites. For hazardous waste disposal, EPA's approach may well be the only feasible option.

(C) We do not believe that the RCRA regulations on waste chemical analysis, inspection, and sampling should be generally applied to low-level waste disposal. Neither should EPA requirements on leachate pumping and treatment. For low-level waste, we believe that waste characterization activities should generally be performed by the waste generator. Such waste characterization activities must already be carried out by waste generators, and to require disposal facility operators to perform detailed confirmatory analysis would needlessly expose site personnel to additional doses of radiation. As for leachate pumping and treatment, we would prefer to eliminate the need to do so to the extent possible.

(D) Under EPA regulations in existence and now being contemplated, permits may indeed be required by EPA for such facilities, but only for that small volume of waste which is both radioactive and chemically hazardous. We do not believe that such permit requirements should be required for disposal of waste into a low-level waste facility. The existing regulatory framework for radioactive waste management is sufficient. Suppose, however, that NRC makes a determination that a particular waste stream generated by such a facility contains so little radioactivity that it does not need to be considered as a radioactive waste. Whether or not the waste generator needs a hazardous waste permit to dispose of his waste as a non-radioactive waste is a question that should be determined by EPA.

(E) NRC would prefer that organic waste contaminated with radioactivity (e.g., liquid scintillation waste) be eliminated from low-level waste sites. NRC is encouraging alternative disposal methods methods such as incineration. Development of capacity for such alternative disposal methods will take time, however, and in the interim we believe that some land disposal capacity should be maintained. Currently, disposal of such waste essentially is restricted to low-level waste disposal sites located in extremely arid environments. This minimizes impacts while alternative disposal methods are being developed.

(F) Post-closure financial responsibility requirements exist for hazardous waste disposal facilities licensed under RCRA as well as low-level readioactive waste disposal facilities licensed under the AEA. Any radioactive waste that also contains hazardous chemicals would automatically be covered under NRC or Agreement State requirements if disposed into a licensed low-level waste disposal facility. We are uncertain what EPA may decide its statutory or policy requirements are in this area. We believe that there is no need for such facilities to also comply with the RCRA requirements.

Question 10. In general, does the NRC regulatory system of generator responsibility, reliance on packaging, 300-year stabilization, and using site characteristics as an isolation mechanism achieve EPA's goal under RCRA of elimination of contaminated leachate migration beneath the disposal facility?

Answer. Based on our experience, we do not believe that any combination of site characteristics, reasonably available techology, and good management practices can completely eliminate leachate migration for the long run. NRC does believe, however, that the regulatory system embodied in 10 CFR Part 61, including generator responsibility and reliance on packaging, waste stabilization, and site characteristics, provides a more effective long-term approach to minimizing the formation and migration of leachate from radioactive waste than a policy that relies heavily on the use of liners for burial trenches. EPA itself recognized the limitations of liners in its standards for owners and operators of hazardous waste treatment, storage and disposal facilities under RCRA, and these standards require only that such liners prevent the migration of wastes during the "active life" and subsequent closure period of a landfill (see Section 264.301(a)(1) of 40 CFR 264, *Federal Register* Vol. 47, No. 143, July 26, 1982, p. 32365). The NRC staff has not critically analyzed the synergistic effects of applying both NRC and EPA criteria control leachate migration in the long run.

EPA's approach may well be most appropriate for the wide variety of chemical wastes under its jurisdiction, and we believe liners to be effective for mill tailings ponds where leachate formation can be reduced by evaporation. For burial of the low-level radioactive wastes we regulate, however, we do not believe that liners will totally eliminate the potential for groundwater contamination. At sites located in humid environments, we have concerns that liners will contribute to the accumulation of leachate which, if not removed, will fill up the disposal cells and possibly overflow. Removal and treatment of this leachate will almost certainly involve a release of some of the contaminants to the environment.

Question 11. What obstacles exist to application of only one set of regulatory requirements by one Federal agency for disposal of radioactively contaminated chemical wastes?

Answer. The principal obstacle appears to be the need for agreement that certain waste streams are to be regulated exclusively under the Atomic Energy Act, and others are to be regulated exclusively under RCRA. Section 1006(a) of RCRA provides that "Nothing in this Act shall be construed to apply to (or authorize any State, interstate, or local authority to regulate) any activity or substance which is subject to the . . . Atomic Energy Act of 1954 . . . except to the extent that such application (or regulation) is not inconsistent with the requirements of such Acts." As we have noted in our responses to your previous questions (6., 7. and 9.), we believe regulation by EPA under RCRA of radioactively contaminated chemical wastes currently under NRC and Agreement State jurisdiction is inconsistent with our regulatory requirements established pursuant to the Atomic Energy Act. Radioactively contaminated chemical wastes regulated by NRC and Agreement States should not be regulated under RCRA. Others, such as certain scintillation and animal laboratory wastes that NRC determines not to be of NRC regulatory concern may be regulated by EPA or authorized States under RCRA without conflict with Atomic Energy Act regulation. NRC does not have jurisdiction over naturally occurring and accelerator-produced radioactive materials (NARM).

Mr. SIMPSON. Finally, Mr. President, I should like to respond to the dramatic claim that some have made that to interpret section 1006 in the fashion that I have suggested would only result in the generators of hazardous wastes mixing small amounts of nuclear materials in with their hazardous waste, in order to transform the entire waste stream into an Atomic Energy Act material exempt from RCRA. If this were indeed to take place, it would be a matter of some significant concern to me, as well

as to many others of us. Given the strict controls imposed on the use of source, special nuclear, and byproduct material, this kind of evasion of the law will simply not take place, particularly since, at some point, the generator would presumably be required to make that fact known in order to avoid regulation under RCRA. But in the event that EPA or others perceive this to be a problem, I should point out that the NRC has suggested—most recently in a July 25, 1984, letter to EPA—an approach to addressing this particular concern that appears to me to respond fully to the concerns that have been expressed. I thank you for this opportunity to clarify the CONGRESSIONAL RECORD entry of July 26, 1984, at page 21121.

METHAQUALONE USE AND SALE OUTLAWED

Mrs. HAWKINS. Mr. President, except for marijuana, methaqualone is the most abused drug among teenagers and young adults in the United States. This year, with the strong leadership of the Eckart Drug Co., legislation has been passed and signed into law which outlaws the use and sale of this hazardous narcotic.

Today, I am pleased to say that Congress has passed and the President has signed legislation to ban methaqualone. Outlawing this dangerous drug will not inconvenience legitimate users. First marketed in the United States in 1965, methaqualone was developed to relieve insomnia. It was soon discovered, however, that its effectiveness is limited; after 2 weeks of use, the body develops a resistance to its sleep-inducing effects. As a result, medical associations stopped recommending it for treatment of insomnia. Furthermore, methaqualone is considered to be an addictive drug. Other, less dangerous, therapeutic products are therefore used to treat insomnia. Nevertheless, a few clinics in major metropolitan areas now treat stress almost exclusively by prescribing this powerful, addictive, central nervous system depressant. For example, about 80 to 90 percent of all prescriptions for methaqualone in New York State last year originated in one stress clinic. And, during a 13-month period, one Miami stress clinic doled out 6,941 methaqualone prescriptions at $100 each for an income of $694,100. Usually these clinics are owned by drug entrepreneurs who have hired physicians willing to circumvent Federal law for a price.

The legislation removes methaqualone from the market by amending the Controlled Substances Act to raise it from a schedule II controlled substance to a schedule I. This change will effect a ban on the sale and use of this hazardous narcotic. It assures windfall profits by trafficking in methaqualone.

Mr. President, the need for this legislation is increasingly urgent. Nationally, emergency methaqualone abuse in 1980 brought nearly 6,000 individuals into hospital emergency rooms. We can expect this figure to be higher in 1982 unless Congress acts because more people are abusing methaqualone. The National Institute on Drug Abuse reports that use by seniors in high school grew from 8 percent in 1975 to nearly 11 percent in 1981.

Statistics released by the Dade County, FL, Medical Examiner's Department indicated that 66 deaths last year in Dade County alone were related to methaqualone use. This is more than the previous 4 years combined.

Additionally, this bill addresses the shocking problem of methaqualone related pharmacy theft. Recently, the Eckart Drug Co. has announced that many of the robberies at its 1,209 pharmacies in 15 States are committed by people seeking methaqualone.

As Senators, we have a responsibility to take action against methaqualone abuse, its associated accident deaths, and related pharmacy theft. I believe this legislation follows the examples set by the States of Florida and Georgia by outlawing the use of this dangerous narcotic.

FACTS AND OPINIONS

Mr. GOLDWATER. Mr. President, a week ago, I had the privilege of addressing the members of the Bohemian Grove. In my speech, I pointed out some of the major problems which face our country today. These problems are not insurmountable if we have the courage to face them with facts and a deep sense of appreciation of our own history. As Bernard Baruch once said, "Every man has a right to his opinion, but no man has a right to be wrong in his facts."

Mr. President, I ask unanimous consent that my speech be inserted in the RECORD for the benefit of my colleagues.

There being no objection, the speech was ordered to be printed in the RECORD, as follows:

SPEECH OF SENATOR BARRY GOLDWATER

Gentlemen, it has been a long time since I've had the pleasure of visiting with you. In fact, it's been about twenty years. I remember at that time I told you the Grove reminded me of a foxhole in the War on Poverty and, looking around, I see no reason to change that opinion. While I'll do my best to keep politics out of my speech, you know I won't and that reminds me that I had a dear uncle who once lived in Chicago. All of his life he was a registered, hard-working Republican. However, a number of years ago he passed away and ever since, he's been a hard-working Democrat.

Normally, I do not like to use a text but this speech is of such importance to me—maybe not to you, but certainly to me—because, you see, I don't get as many chances to say what's on my mind as I did twenty years ago. I haven't been to Cuba lately to get anybody released and I have no intentions of going to Russia for the same purpose, so I'll try to stay with what I have written because of its importance to me.

In a serious vein, there are several threats that I wish to discuss with you today relative to our country, America. Some of the danger points I can see hovering in the distance and some quite a bit closer. The end result of these troubles will not be just the normal ups-and-downs such as we go through in our periodic recessions or economic adjustments or even during periods of war and the ensuing peace. These threats that face us, in my humble opinion, could well cause the end to the full pursuit of freedom in what we call a democratic republic. Let me start by quoting one of our greatest Americans.

"At what point shall we expect the approach of danger? By what means shall we fortify against it? Shall we expect some transatlantic military giant, to step the ocean, and crush us at a blow? Never!

"All the armies of Europe, Asia and Africa combined . . . could not by force take a drink from the Ohio, or make a track on the Blue Ridge, in a trail of a thousand years.

"At what point then is the approach of danger to be expected? I answer, if it ever reach us, it must spring up amongst us. It cannot come from abroad. If destruction be our lot, we must ourselves be its author and finisher. As a nation of freemen, we must live through all time, or die by suicide."

Those words, spoken by Abraham Lincoln, are as valid today as they were 146 years ago. And yet, I have the feeling that Lincoln's prophesy is on the verge of being borne out.

Part of my fears are based on the fact that our Nation is eyeball-to-eyeball with a debt of calamitous proportions but, our combined leadership has blinked. Driven by exhortations of special interest groups, our political leaders continue to maintain their "business as usual" approach to our economic problems. The clear evidence of this is that the second session of this Congress has been meeting for almost six months and we have yet to accomplish anything meaningful. Oh yes, there have been speeches and votes but what are they? Window dressing would be a charitable description! In reality, the constructive work of Congress and the Administration has been set aside for the time being. Indeed, the whole process has become so totally involved in the reelection process madness that everything being said and done is for political purposes.

While the sea of red ink is engulfing us, the special interest groups and their allies continue to demand and receive federal money for narrow, vested reasons. And, let me remind you, that federal money is taxpayers' dollars which has been entrusted to us to "promote the common welfare." We, most certainly, are not promoting the common welfare if we allow the rising deficit tide to destroy the homes, savings and investments of the working men and women of this nation.

The worst part of all this is the blatant hypocrisy of those people who constantly cry, "cut the defense budget." While this approach has a certain amount of appeal for some people, just what does it mean? Let us say that we will eliminate all tactical aircraft. By that I mean everything from our fighters to our helicopters to AWACS. By doing so, we could cut about $17.8 billion from the overall budget. To do so, would

only equal the amount that we will spend on the various veterans' entitlement programs. But, let us take this defense cutting another step farther. If we would take all of the top 50 defense programs and completely eliminate them for three years we would save $182.3 billion, which is less than what we will pay for Social Security and Railroad Retirement in one year.

While I agree that the defense budget could and can be cut in some areas, nevertheless, it is still irritating to watch the maneuvering and manipulation that goes on in committees and on the Floor. As an example, every time it is suggested that a military base be closed and its functions consolidated, the erstwhile "budget cutters" are the first ones to ignore the fact that the consolidation would save billions of dollars and demand that these bases remain open because they are in their back yard.

On top of this, these same "budget cutters" are the ones who would ignore competitive bidding if a chosen weapon is made in their district and they are the same ones who have maintained military product lines well beyond any reasonable useful life. They are, as Milton and Rose Friedman so accurately describe them, members of the "Iron Triangle" of politicians, bureaucrats and lobbyists who have a vested interest in the current system and are successful at stonewalling any changes. They are so successful that we now have laws, rules, regulations, agencies and bureaucracies floating around and spending taxpayer dollars that last had a useful purpose when buggy whips were in style.

As a result of these special interest groups, both inside and outside of government, one of our major problems has been our inability to come to grips with the various "entitlement" programs. These are the programs enacted into law which have open-ended funding automatically built into them. Examples of these would be Social Security, Railroad Retirement, Federal Retirement and Disability, Medicare and Medicaid and many others. The plain fact is that Social Security will take up twenty percent of the Federal budget this year and there is no end in sight to its upper limits. Combining Social Security with Railroad Retirement will end up costing us $190 billion this year alone! All told, the entitlement programs will cost us $423 billion this year. Yet, I defy anyone to point out one of our political leaders who has had the courage to stand up and ask for some limits to this unending, open checkbook. If there is one, I'll assure you that he won't last long in Washington.

The litany of wasted-dollar horror stories march through every department, agency and bureau of our Government. If we have the political courage to stop this waste, there are two approaches which will help stop our economic decline, one short-term and one long-term.

The short-term solution would be to institute a budget freeze which would allow only enough growth to cover the cost of inflation. During this freeze period, Congress and the Administration would gain time to review and analyze each and every program. During this review, the main question which must be asked is, "Does this program represent something that is absolutely essential to the welfare of our country or is it, in effect, a luxury that can be postponed to a later date?" If we have the willingness to face these questions openly and honestly without bowing to special interest group pressure, we will have come a long way toward ridding ourselves of the monstrous burden of the Federal deficit.

I have pleaded with the last four Presidents to come to grips with this obvious major financial problem and admit it to the American people: We are in a welfare state. And, unfortunately, no nation in history has ever returned, once they have embarked on that path. I'm not standing here today and telling you that we can't get back. I want the President to talk to the American people and outline to them the problems of the welfare state. Then, we must engage in an academic, political and business approach to this whole thing to see if there might be solutions that other nations have never been able to find to solve the financial problems of the welfare state.

I'm not saying that it can be done and I'm not saying that it can't be done. But, I can tell you here in this beautiful grove—the beautiful thing we have called America for over two hundred years is threatened when nearly fifty percent of the people have to work their heads off to support the other fifty percent. Again, maybe it can be done and maybe there is a way. However, to this point, the answers have escaped my inadequate mind. Simply put, I would like to see our President ask this question of the best brains in the country to see what we might come up with to avert the impending disaster.

If we have the courage to take these steps, we may prevent some future historian from writing the book "The Rise and Fall of the American Democracy." If not, our Nation is staggering toward the precipice of a world disaster which will make the Depression of the 1920's and 1930's look like a Sunday School picnic. In 1928, the Kreditenstalt Bank of Austria had its failure which created a "ripple effect" throughout the world's economy. Fortunately, at that time, the world's currency and monetary instruments were not as intertwined and interlocked as they are today. And yet, for those of us old enough to remember, the ultimate effect on the United States was one of tragic proportions. Yet, in today's climate of meshed economies and the fact that other nations adjust their currencies to match ours, the coming bankruptcy of our country will have an Armageddon-like effect upon the world.

Again, it will take extreme political courage for our elected officials to withstand the siren calls of special interest groups who can muster the votes.

One other matter that has been bothering me for quite a few years is the question of what is wrong with American foreign policy. There is something wrong with it. There's something wrong when just plain, simple solutions and ordinary analysis cannot help us set aside the false stops and starts in our foreign relations. There is no question that Vietnam—with the determination of our Presidents and Secretaries of Defense and other civilians in Washington to attempt to run that war—was a war that ended in disaster for the United States. Vietnam was a war which could have been won in a matter of weeks had military doctrine been allowed to be applied and it was a war, whether you like it or not, that was proper for the United States to be engaged in.

I can well understand the frustrations and the anger of those men who marched off to war, as millions of others have marched off to war, to defend the principles and freedom of our country, but who were not allowed to win a war. They were told, in effect, don't shoot back, don't destroy this portion of the enemy's forces. Our whole tactics were governed by rules of engagement, books stupidly written by civilians in Washington as to how the war should be conducted. As a result of that experience, these brave young men—just as brave as we've ever had in any war—came home disillusioned and it is only now that we are seeing this disillusionment beginning to disappear. It is only now that we are beginning to see patriotism born again in the hearts of our young people still in grade schools and high schools.

Unfortunately, as a result of this disillusionment, we again had politics injected into foreign policy, not just with a little gesture, but with all four feet. A number of years ago, men that I feel were well-intentioned but who were also perfectly willing, set aside the concepts of the Constitution so that the Congress could gain control of foreign policy. Deciding not to leave it vested with the President, Congress enacted the "so-called" War Powers Act.

Clearly, the Constitution designates the President as the Commander-in-Chief of the forces and it is only he who can call out the troops. Yes, the Congress can declare war. They can declare a war every five minutes but no troops will go anyplace. Do you realize that in the two hundred plus years of our history, our troops have been called up for one reason or another over two hundred times with Congress declaring war in only five of the cases and two of those declarations were in one war.

The Congress, through advice and consent powers, does have a hand in foreign policy. They can advise the President that they like or dislike his foreign policy or they can withhold funds for the enactment of that foreign policy. And yet, even now, the President is saddled with the War Powers Act. If I were an enemy of the United States I can not think of a better arrangement to win a war against the United States than by having the President call the troops out, which he can still do under the War Powers Act, and then within sixty days have the Congress decide whether or not he must call them back. If you do not think I, as an enemy, wouldn't muster all publicity lanes in this country to excite American thinking in order that the Congress would be influenced to tell the President the war is over, then I am wrong.

I want to state flatly what I've said before, I've said it to Presidents; "This nation no longer can afford the War Powers Act." If we took the action in Congress to strip our books of that ill-advised law, our foreign policy immediately would begin to have a different affect upon this world than it does now. As a consequence of all this, what is happening in America is the rebuilding of a Fortress America. We hear constant speeches on the floor of the Senate and the House exhorting, in effect, our President to withhold forces from any part of the world, even though all the principles of America—the principles of freedom and justice and the principles of human rights—are being abused daily before our eyes.

Harken back to the Democratic primaries that have just been ended. And, I don't pick the Democrats out especially, only we saw them in action for many months while the Republican side did not have to have any primaries. All of the candidates were saying, "keep our troops at home; don't answer any threats; let Central America go down the drain, it's of no importance."

Well, I can tell you gentleman, it's of great importance to those of us who live along the Mexican border which is only 800

miles from Central America. It's important because where do you think the next target of aggression will be? If my hunch is right, in all probability, Mexico. I hope the President, in his coming campaign, will talk about the way the Congress is hamstringing his efforts to conduct foreign policy around this world. I hope, yes, I pray, that he will point out to the American people the dire consequences of tying the President's hand, whoever he might be, in the formulation and conduct of foreign policy. United States foreign policy is one that should and will protect the basic individual freedoms that are the only reason that God ever advanced for our being on Earth.

In closing, let me remind you that we all are in this together. If one of us fails to do our individual best, the whole fabric of our "Noble Experiment" will begin to unravel. Over two hundred years ago our Founding Fathers pledged "their lives, their fortunes and their sacred honor" to establish a nation of free men and women. Since that time, our fathers and grandfathers, and their fathers before them have been called upon to redeem that pledge. It would be the worst of all sins if we broke faith with our own heritage in order to take the easy way out. And, let me remind you that nowhere in the Declaration of Independence, the Constitution or the Bill of Rights are there any guarantees.

As our Forefathers knew, our God-given freedoms are precious items which must be defended constantly whether from external aggression or internal disintegration. Each one of us has the duty and responsibility to "protect and defend the Constitution of the United States" whether we are public officials, the corner grocer, a union leader or a businessman. And, if we can remember to maintain our goal of the best interests of the country instead of narrow, parochial self interest, we will have come a long way toward facing and defeating the problems I have described.

TRIBUTE TO CARL D. PERKINS

Mr. PELL. Mr. President, I was deeply grieved to learn last Friday of the passing of my friend and colleague, Representative CARL D. PERKINS, the chairman of the House Education and Labor Committee.

I had the honor of working and chairing conferences with CARL PERKINS for almost 15 years, primarily in conferences between the House and Senate on virtually every aspect of Federal aid to education. Over the course of those years and meetings, I developed a profound respect for Chairman PERKINS.

CARL PERKINS was a rare individual. He held deep personal convictions that this Government should be a positive instrument of help to the less fortunate in our society. But perhaps even more important, he had the talent to translate those convictions into action, and to actually do something for those who were powerless and needed our Government's help.

There is not a piece of elementary, secondary, and vocational education legislation that does not bear the imprint of CARL PERKINS. All were his children. And just like a caring and devoted parent, CARL PERKINS not only brought those programs into being but also nurtured, perfected, and protected them.

There is no question that CARL PERKINS was a strong leader in his capacity as chairman of the Education and Labor Committee. The list is long of those who took him on and lost. His strength was often seen in his patience and his willingness to outsit his adversaries. On more than one occasion, I saw him keep a conference going until he got his way by simply outlasting his opponents, by exhausting them.

CARL PERKINS sought and used power not for personal aggrandizement, but for the public good. Millions of young Americans owe their education to CARL PERKINS. All but a handful will never realize that. Yet, I have a very real feeling that is how CARL PERKINS would have wanted it. He did things because they were the right thing to do, because he believed in them, and not because they would bring him headlines or personal honor. To do them was enough.

Mr. President, we shall miss CARL PERKINS. As I said in a letter to Mrs. Perkins, he was a remarkable person, a superb legislator, and a true gentleman. It was a privilege to have known and worked with him.

PENSION PROTECTION FOR AT&T-BELL SYSTEM EMPLOYEES

Mr. PRYOR. Mr. President, I want to commend the House and Senate conferees on the Deficit Reduction Act, H.R. 4170, for their inclusion of important language in that bill to provide pension portability to employees of the AT&T-Bell System who might have otherwise lost accrued benefits as a result of the divestiture of AT&T. These employees have understandably been concerned that their benefits could be in jeopardy without specific congressional action, but this concern was addressed as the House and Senate approved H.R. 4170 during the final week of June.

My colleagues may recall that this problem was initially dealt with in S. 1660, the Universal Telephone Service Preservation Act, and the Communication Workers of America [CWA] supported that bill. On January 26, as the Senate debated whether to go to the consideration of S. 1660, I joined several of my colleagues on the Senate floor in speaking out about this situation. Although that day the Senate elected not to go to the consideration of the telephone legislation on a procedural vote—I voted in favor of proceeding to that bill—commitments were made by a number of Senators that this issue would be resolved through some other legislative vehicle.

In efforts to protect these employees' earned benefits, I joined with Senators PACKWOOD and HOLLINGS in urging the Senate to address the matter with independent legislation which had been endorsed by the CWA, AT&T, and the Bell Operating Cos. Although this legislation was never introduced, the language in it was incorporated into the Senate version of the Deficit Reduction Act, H.R. 2163. Although the House had no comparable language in its version of the bill, I was pleased that the conferees saw the need to include it in the conference report which Congress subsequently approved.

Mr. President, the divestiture of AT&T is having, and will continue to have, a profound impact on our Nation. Although Congress has not taken any major legislative action to modify the Federal Communications Commission's implementation of the Justice Department-mandated and court-ordered breakup, some action may be necessary in the future. I am pleased, however, that Congress acted to assure that employees who have spent years within the AT&T-Bell System will retain the important rights and benefits which they have earned.

PROMPT PAYMENT ACT

Mr. PRYOR. Mr. President, it is with a great deal of satisfaction that I review the results of congressional action during the 97th Congress to address the problem of late payments by the Government to suppliers of goods and services. I'm referring to the Prompt Payment Act, now Public Law 97-177, which I worked on and cosponsored, and has forced the Federal Government to pay its bills in a timely fashion.

Since the enactment of this important legislation, Federal agencies have been compelled to pay their bills within 30 days or pay interest on unpaid charges. It has forced Government agencies to get their bill paying procedures in order and has vastly improved the private sector's perception of the Federal Government as a business partner.

It is therefore clear that the Federal Government in general has benefitted as a direct result of this law. In additon, and of extreme importance to me, is the positive impact the law has had on small businesses across our Nation. These businesses have neither the resources nor the time to pursue Uncle Sam when he fails to act in a responsible manner with regard to bill payment. But this critical problem has been greatly alleviated, since the Office of Management and Budget [OMB] has reported that Federal agencies are now paying 99 percent of their bills on time, up from totally unacceptable levels of 60 percent in 1979.

Mr. President, I should note that there are currently 35 prompt pay

laws incorporated into State law, and support in other States is growing. It is gratifying to me that both the Federal and State governments have recognized the need for movement in this direction. It is my firm belief that business and Government will share equally in the economic benefits that can be realized from prompt payment.

Finally, I want to say that the work of many of my colleagues, the small business community and the Prompt Pay Coalition—under the tremendous leadership of Mr. Kenton Pattie—was instrumental in the success of this long overdue measure. I commend all these individuals for their commitment to good government.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

RETIREMENT EQUITY ACT OF 1984

Mr. DOLE. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of H.R. 4280.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (H.R. 4280) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses who work both in and outside the home, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Finance with an amendment to strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement Equity Act of 1984".

TITLE I—AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 101. AMENDMENT OF ERISA.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Employee Retirement Income Security Act of 1974.

SEC. 102. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.—

(1) IN GENERAL.—Clause (i) of section 202(a)(1)(A) (29 U.S.C. 1052(a)(1)(A)(i)) is amended by striking out "25" and inserting in lieu thereof "21".

(2) SPECIAL RULE FOR CERTAIN PLANS.—Clause (ii) of section 202(a)(1)(B) (29 U.S.C. 1052(a)(1)(B)(ii)) is amended by striking out "'30' for '25'" and inserting in lieu thereof "'26' for '21'".

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 203(b)(1) (29 U.S.C. 1053(b)(1)(A)) is amended by striking out "22" and inserting in lieu thereof "18".

(c) BREAK IN SERVICE FOR VESTING UNDER INDIVIDUAL ACCOUNT PLANS.—Subparagraph (C) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(C)) is amended—

(1) by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service", and

(2) by striking out "such break" each place it appears and inserting in lieu thereof "such 5-year period".

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) MINIMUM PARTICIPATION STANDARDS.—Paragraph (4) of section 202(b) (29 U.S.C. 1052(b)(4)) is amended to read as follows:

"(4)(A) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(i) 5, or

"(ii) the aggregate number of years of service before such period.

"(B) If any years of service are not required to be taken into account by reason of a period of breaks in service to which subparagraph (A) applies, such years of service shall not be taken into account in applying subparagraph (A) to a subsequent period of breaks in service.

"(C) For purposes of subparagraph (A), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.".

(2) MINIMUM VESTING STANDARDS.—Subparagraph (D) of section 203(b)(3) (29 U.S.C. 1053(b)(3)(D)) is amended to read as follows:

"(D)(i) For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions.".

(e) CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.—

(1) MINIMUM PARTICIPATION STANDARDS.—Subsection (b) of section 202 (29 U.S.C. 1052(b)) is amended by adding at the end thereof the following new paragraph:

"(5)(A) In the case of each individual who is absent from work for any period—

"(i) by reason of the pregnancy of the individual,

"(ii) by reason of the birth of a child of the individual,

"(iii) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(iv) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this subsection whether a 1-year break in service (as defined in section 203(b)(3)(A)) has occurred, the hours described in subparagraph (B).

"(B) The hours described in this subparagraph are—

"(i) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(ii) in any case in which the plan is unable to determine the hours described in clause (i), 8 hours of service per day of such absence,

except that the total number of hours treated as hours of service under this subparagraph by reason of any such pregnancy or placement shall not exceed 501 hours.

"(C) The hours described in subparagraph (B) shall be treated as hours of service as provided in this paragraph—

"(i) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in subparagraph (A); or

"(ii) in any other case, in the immediately following year.

"(D) For purposes of this paragraph, the term 'year' means the period used in computations pursuant to section 202(a)(3)(A).

"(E) A plan may provide that no credit will be given pursuant to this paragraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(i) that the absence from work is for reasons referred to in subparagraph (A), and

"(ii) the number of days for which there was such an absence."

(2) MINIMUM VESTING STANDARDS.—Section 203(b)(3) (29 U.S.C. 1053(b)(3)) is amended by adding at the end thereof the following new subparagraph:

"(E)(i) In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the

adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

"(ii) The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of such pregnancy or placement shall not exceed 501 hours.

"(iii) The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to paragraph (2).

"(v) A plan may provide that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence.".

(3) ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.—Subparagraph (A) of section 204(b)(3) (29 U.S.C. 1054(b)(3)(A)) is amended by inserting ", determined without regard to section 202(b)(5)" after "section 202(b)".

(f) APPLICATION OF BREAK IN SERVICE RULES TO ACCRUED BENEFITS.—Subsection (e) of section 204 (29 U.S.C. 1054 (e)) is amended by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service".

SEC. 103. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRERETIREMENT SURVIVOR ANNUITIES.

(a) GENERAL RULE.—Section 205 (29 U.S.C. 1055) is amended to read as follows:

"REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY

"SEC. 205. (a) Each pension plan to which this section applies shall provide that—

"(1) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant shall be provided in the form of a qualified joint and survivor annuity, and

"(2) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity shall be provided to the surviving spouse of such participant.

"(b)(1) This section shall apply to—

"(A) any defined benefit plan,

"(B) any individual account plan which is subject to the funding standards of section 302, and

"(C) any participant under any other individual account plan unless—

"(i) such plan provides that the participant's nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant's surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under subsection (c)(2)(A), to a designated beneficiary),

"(ii) such participant does not elect the payment of benefits in the form of a life annuity, and

"(iii) with respect to such participant, such plan is not a transferee of a plan which is described in subparagraph (A) or (B) or to which this clause applied with respect to the participant.

"(2)(A) In the case of—

"(i) a tax credit employee stock ownership plan (as defined in section 409(a) of the Internal Revenue Code of 1954), or

"(ii) an employee stock ownership plan (as defined in section 4975(e)(7) of such Code),

subsection (a) shall not apply to that portion of the employee's accrued benefit to which the requirements of section 409(h) of such Code apply.

"(B) Subparagraph (A) shall not apply with respect to any participant unless the requirements of clause (i), (ii), and (iii) of paragraph (1)(C) are met with respect to such participant.

"(c)(1) A plan meets the requirements of this section only if—

"(A) under the plan, each participant—

"(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

"(ii) may revoke any such election at any time during the applicable election period, and

"(B) the plan meets the requirements of paragraphs (2) and (3).

"(2) Each plan shall provide that an election under paragraph (1)(A)(i) shall not take effect unless—

"(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

"(B) it is established to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary of the Treasury may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

"(3)(A) Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary of the Treasury may prescribe) a written explanation of—

"(i) the terms and conditions of the qualified joint and survivor annuity,

"(ii) the participant's right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

"(iii) the rights of the participant's spouse under paragraph (2), and

"(iv) the right to make, and the effect of, a revocation of an election under paragraph (1).

"(B) Each plan shall provide to each participant, within the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35 (and consistent with such regulations as the Secretary of the Treasury may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(4)(A) The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

"(B) For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

"(5) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

"(A) relying on a consent or revocation referred to in paragraph (1)(A), or

"(B) making a determination under paragraph (2),

then such consent, revocation, or determination shall be treated as valid for purposes of discharging the plan from liability to the extent of payments made pursuant to such act.

"(6) For purposes of this subsection, the term 'applicable election period' means—

"(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

"(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant's death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

"(d) For purposes of this section, the term 'qualified joint and survivor annuity' means an annuity—

"(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(e) For purposes of this section—

"(1) Except as provided in paragraph (2), the term 'qualified preretirement survivor annuity' means a survivor annuity for the life of the surviving spouse of the participant if—

"(A) the payments to the surviving spouse under such annuity are not less than the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan (or the actuarial equivalent thereof) if—

"(i) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate

qualified joint and survivor annuity on the day before the participant's date of death, or

"(ii) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

"(I) separated from service on the date of death,

"(II) survived to the earliest retirement age,

"(III) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

"(IV) died on the day after the day on which such participant would have attained the earliest retirement age, and

"(B) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

"(2) In the case of any individual account plan or participant described in subparagraph (B) or (C) of subsection (b)(1), the term 'qualified preretirement survivor annuity' means an annuity for the life of the surviving spouse the actuarial equivalent of which is not less than 50 percent of the account balance of the participant as of the date of death.

"(f)(1) Except as provided in paragraph (2), a plan may provide that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

"(A) the participant's annuity starting date, or

"(B) the date of the participant's death,

"(2) For purposes of paragraph (1), if—

"(A) a participant marries within 1 year before the annuity starting date, and

"(B) the participant and the participant's spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant's death,

such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant's annuity starting date.

"(g)(1) A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed $3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to such distribution.

"(2) If—

"(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $3,500, and

"(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution,

the plan may immediately distribute the present value of such annuity.

"(3) For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribution and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

"(h) For purposes of this section—

"(1) the term 'vested participant' means any participant who has a nonforfeitable right (within the meaning of section 3(19)) to any portion of the accrued benefit derived from employer contributions,

"(2) the term 'annuity starting date' means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability), and

"(3) the term 'earliest retirement age' means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

"(i) A plan may take into account in any equitable manner (as determined by the Secretary of the Treasury) any increased costs resulting from providing a qualified joint or survivor annuity or a qualified preretirement survivor annuity.

"(j) In prescribing regulations under this section, the Secretary of the Treasury shall consult with the Secretary of Labor.".

"(b) CLERICAL AMENDMENT.—The table of contents in section 1 is amended by striking out the item relating to section 205 and inserting in lieu thereof the following new item:

"Sec. 205. Requirement of joint and survivor annuity and preretirement survivor annuity.".

SEC. 104. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

(a) IN GENERAL.—Section 206(d) (29 U.S.C. 1056(d)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) Paragraph (1) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that paragraph (1) shall not apply if the order is determined to be a qualified domestic relations order. Each pension plan shall provide for the payment of benefits in accordance with the applicable requirements of any qualified domestic relations order.

"(B) For purposes of this paragraph—

"(i) the term 'qualified domestic relations order' means a domestic relations order—

"(I) which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

"(II) with respect to which the requirements of subparagraphs (C) and (D) are met, and

"(ii) the term 'domestic relations order' means any judgment, decree, or order (including approval of a property settlement agreement) which—

"(I) relates to the provision of child support, alimony payments, or marital property rights to a spouse, former spouse, child, or other dependent of a participant, and

"(II) is made pursuant to a State domestic relations law (including a community property law).

"(C) A domestic relations order meets the requirements of this subparagraph only if such order clearly specifies—

"(i) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order,

"(ii) the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

"(iii) the number of payments or period to which such order applies, and

"(iv) each plan to which such order applies.

"(D) A domestic relations order meets the requirements of this subparagraph only if such order—

"(i) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

"(ii) does not require the plan to provide increased benefits (determined on the basis of actuarial value), and

"(iii) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

"(E)(i) In the case of any payment before a participant has separated from service, a domestic relations order shall not be treated as failing to meet the requirements of clause (i) of subparagraph (D) solely because such order requires that payment of benefits be made to an alternate payee—

"(I) on or after the date on which the participant attains (or would have attained) the earliest retirement age,

"(II) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only the present value of benefits actually accrued and not taking into account the present value of any employer subsidy for early retirement), and

"(III) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

For purposes of subclause (II), the interest rate assumption used in determining the present value shall be the interest rate specified in the plan or, if no rate is specified, 5 percent.

"(ii) For purposes of this subparagraph, the term 'earliest retirement age' has the meaning given such term by section 205(h)(3), except that in the case of any individual account plan, the earliest retirement age shall be the date which is 10 years before the normal retirement age.

"(F) To the extent provided in any qualified domestic relations order—

"(i) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of section 205, and

"(ii) if married for at least 1 year, the former spouse shall be treated as meeting the requirements of section 205(f).

"(G)(i) In the case of any domestic relations order received by a plan—

"(I) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and

"(II) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(ii) Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders. Such procedures—

"(I) shall be in writing,

"(II) shall provide for the notification of each person specified in a domestic relations order as entitled to payment of bene-

fits under the plan (at the address included in the domestic relations order) of such procedures promptly upon receipt by the plan of the domestic relations order, and

"(III) shall permit an alternate payee to designate a representative for receipt of copies of notices that are sent to the alternate payee with respect to a domestic relations order.

"(H)(i) During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

"(ii) If within 18 months the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

"(iii) If within 18 months—

"(I) it is determined that the order is not a qualified domestic relations order, or

"(II) the issue as to whether such order is a qualified domestic relations order is not resolved,

then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

"(iv) Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period shall be applied prospectively only.

"(I) If a plan fiduciary acts in accordance with part 4 of this subtitle in—

"(i) treating a domestic relations order as being (or not being) a qualified domestic relations order, or

"(ii) taking action under subparagraph (H),

then the plan's obligation to the participant and each alternate payee shall be discharged to the extent of any payment made pursuant to such act.

"(J) A person who is an alternate payee under a qualified domestic relations order shall be considered for purposes of any provision of this Act a beneficiary under the plan. Nothing in the preceding sentence shall permit a requirement under section 4001 of the payment of more than 1 premium with respect to a participant for any period.

"(K) The term 'alternate payee' means any spouse, former spouse, child, or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

"(L) In prescribing regulations under this paragraph, the Secretary shall consult with the Secretary of the Treasury.".

(b) CLARIFICATION OF PREEMPTION PROVISION.—Subsection (b) of section 514 (29 U.S.C. 1144(b)) is amended by adding at the end thereof the following new paragraph:

"(7) Subsection (a) shall not apply to qualified domestic relations orders (within the meaning of section 206(d)(3)(B)(i)).".

SEC. 105. RESTRICTIONS ON MANDATORY DISTRIBUTIONS.

(a) GENERAL RULE.—Section 203 (29 U.S.C. 1053) is amended by adding at the end thereof the following new subsection:

"(e)(1) If the present value of any accrued benefit exceeds $3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

"(2) For purposes of paragraph (1), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.".

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 204(d) (29 U.S.C. 1054(d)(1)) is amended by striking out "$1,750" and inserting in lieu thereof "$3,500".

SEC. 106. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (c) of section 105 (29 U.S.C. 1025(c)) is amended by inserting at the end thereof the following new sentence: "Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date.".

TITLE II—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954

SEC. 201. AMENDMENT OF 1954 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1954.

SEC. 202. MODIFICATIONS OF MINIMUM PARTICIPATION AND VESTING STANDARDS.

(a) AGE LIMITATION FOR MINIMUM PARTICIPATION STANDARDS LOWERED FROM AGE 25 TO AGE 21.—

(1) IN GENERAL.—Subparagraph (A)(i) of section 410(a)(1) (relating to minimum age requirement for participation) is amended by striking out "25" and inserting in lieu thereof "21".

(2) SPECIAL RULE FOR CERTAIN PLANS.—Subparagraph (B)(ii) of section 410(a)(1) (relating to special rules for certain plans) is amended by striking out "'30' for '25'" and inserting in lieu thereof "'26' for '21'".

(b) YEARS OF SERVICE AFTER AGE 18 (INSTEAD OF AGE 22) TAKEN INTO ACCOUNT FOR DETERMINING NONFORFEITABLE PERCENTAGE.—Subparagraph (A) of section 411(a)(4) (relating to service included in determination of nonforfeitable percentage) is amended by striking out "22" and inserting in lieu thereof "18".

(c) BREAK IN SERVICE FOR VESTING UNDER DEFINED CONTRIBUTION PLANS, ETC.—Subparagraph (C) of section 411(a)(6) (relating to 1-year break in service under defined contribution plan) is amended—

(1) by striking out "1-YEAR BREAK IN SERVICE" in the subparagraph heading and inserting in lieu thereof "5 CONSECUTIVE 1-YEAR BREAKS IN SERVICE",

(2) by striking out "any 1-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service", and

(3) by striking out "such break" each place it appears and inserting in lieu thereof "such 5-year period".

(d) RULE OF PARITY FOR NONVESTED PARTICIPANTS TO BE APPLIED ONLY IF BREAK IN SERVICE EXCEEDS 5 YEARS.—

(1) MINIMUM PARTICIPATION STANDARDS.—Subparagraph (D) of section 410(a)(5) (relating to breaks in service) is amended to read as follows:

"(D) NONVESTED PARTICIPANTS.—

"(i) IN GENERAL.—For purposes of paragraph (1), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account in computing the period of service if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.—If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) NONVESTED PARTICIPANT DEFINED.—For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions."

(2) MINIMUM VESTING STANDARDS.—Subparagraph (D) of section 411(a)(6) (relating to breaks in service) is amended to read as follows:

"(D) NONVESTED PARTICIPANTS.—

"(i) IN GENERAL.—For purposes of paragraph (4), in the case of a nonvested participant, years of service with the employer or employers maintaining the plan before any period of consecutive 1-year breaks in service shall not be required to be taken into account if the number of consecutive 1-year breaks in service within such period equals or exceeds the greater of—

"(I) 5, or

"(II) the aggregate number of years of service before such period.

"(ii) YEARS OF SERVICE NOT TAKEN INTO ACCOUNT.—If any years of service are not required to be taken into account by reason of a period of breaks in service to which clause (i) applies, such years of service shall not be taken into account in applying clause (i) to a subsequent period of breaks in service.

"(iii) NONVESTED PARTICIPANT DEFINED.—For purposes of clause (i), the term 'nonvested participant' means a participant who does not have any nonforfeitable right under the plan to an accrued benefit derived from employer contributions."

(e) CERTAIN MATERNITY OR PATERNITY ABSENCES NOT TREATED AS BREAKS IN SERVICE.—

(1) MINIMUM PARTICIPATION STANDARDS.—Paragraph (5) of section 410(a) (relating to breaks in service) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

"(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service (as

defined in section 411(a)(6)(A)) has occurred, the hours described in clause (ii).

"(ii) HOURS TREATED AS HOURS OF SERVICE.—The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of such absence,

except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

"(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) YEAR DEFINED.—For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to paragraph (3).

"(v) INFORMATION REQUIRED TO BE FILED.—A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence."

(2) MINIMUM VESTING STANDARDS.—Paragraph (6) of section 411(a) (relating to breaks in service) is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MATERNITY OR PATERNITY ABSENCES.—

"(i) GENERAL RULE.—In the case of each individual who is absent from work for any period—

"(I) by reason of the pregnancy of the individual,

"(II) by reason of the birth of a child of the individual,

"(III) by reason of the placement of a child with the individual in connection with the adoption of such child by such individual, or

"(IV) for purposes of caring for such child for a period beginning immediately following such birth or placement,

the plan shall treat as hours of service, solely for purposes of determining under this paragraph whether a 1-year break in service has occurred, the hours described in clause (ii).

"(ii) HOURS TREATED AS HOURS OF SERVICE.—The hours described in this clause are—

"(I) the hours of service which otherwise would normally have been credited to such individual but for such absence, or

"(II) in any case in which the plan is unable to determine the hours described in subclause (I), 8 hours of service per day of absence,

except that the total number of hours treated as hours of service under this clause by reason of any such pregnancy or placement shall not exceed 501 hours.

"(iii) YEAR TO WHICH HOURS ARE CREDITED.—The hours described in clause (ii) shall be treated as hours of service as provided in this subparagraph—

"(I) only in the year in which the absence from work begins, if a participant would be prevented from incurring a 1-year break in service in such year solely because the period of absence is treated as hours of service as provided in clause (i); or

"(II) in any other case, in the immediately following year.

"(iv) YEAR DEFINED.—For purposes of this subparagraph, the term 'year' means the period used in computations pursuant to paragraph (5).

"(v) INFORMATION REQUIRED TO BE FILED.—A plan shall not fail to satisfy the requirements of this subparagraph solely because it provides that no credit will be given pursuant to this subparagraph unless the individual furnishes to the plan administrator such timely information as the plan may reasonably require to establish—

"(I) that the absence from work is for reasons referred to in clause (i), and

"(II) the number of days for which there was such an absence."

(3) ABSENCES DISREGARDED FOR PURPOSES OF ACCRUED BENEFIT REQUIREMENTS.—Subparagraph (A) of section 411(b)(3) (relating to year of participation) is amended by inserting ", determined without regard to section 410(a)(5)(E)" after "section 410(a)(5)".

(f) APPLICATION OF BREAK IN SERVICE RULES TO ACCRUED BENEFITS.—Subparagraph (C) of section 411(a)(7) (defining accrued benefit) is amended by striking out "any one-year break in service" and inserting in lieu thereof "5 consecutive 1-year breaks in service".

SEC. 203. REQUIREMENT OF JOINT AND SURVIVOR ANNUITIES AND PRERETIREMENT SURVIVOR ANNUITIES.

(a) GENERAL RULE.—Paragraph (11) of section 401(a) (relating to requirement of joint and survivor annuities) is amended to read as follows:

"(11) REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.—

"(A) IN GENERAL.—In the case of any plan to which this paragraph applies, except as provided in section 417, a trust forming part of such plan shall not constitute a qualified trust under this section unless—

"(i) in the case of a vested participant who retires under the plan, the accrued benefit payable to such participant is provided in the form of a qualified joint and survivor annuity, and

"(ii) in the case of a vested participant who dies before the annuity starting date and who has a surviving spouse, a qualified preretirement survivor annuity is provided to the surviving spouse of such participant.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to—

"(i) any defined benefit plan,

"(ii) any defined contribution plan which is subject to the funding standards of section 412, and

"(iii) any participant under any other defined contribution plan unless—

"(I) such plan provides that the participant's nonforfeitable accrued benefit is payable in full, on the death of the participant, to the participant's surviving spouse (or, if there is no surviving spouse or the surviving spouse consents in the manner required under section 417(a)(2)(A), to a designated beneficiary),

"(II) such participant does not elect a payment of benefits in the form of a life annuity, and

"(III) with respect to such participant, such plan is not a direct or indirect transferee of a plan which is described in clause (i) or (ii) or to which this clause applied with respect to the participant.

"(C) EXCEPTION FOR CERTAIN ESOP BENEFITS.—

"(i) IN GENERAL.—In the case of—

"(I) a tax credit employee stock ownership plan (as defined in section 409(a)), or

"(II) an employee stock ownership plan (as defined in section 4975(e)(7)),

subparagraph (A) shall not apply to that portion of the employee's accrued benefit to which the requirements of section 409(h) apply.

"(ii) NONFORFEITABLE BENEFIT MUST BE PAID IN FULL, ETC.—In the case of any participant, clause (i) shall apply only if the requirements of subclauses (I), (II), and (III) of subparagraph (B)(iii) are met with respect to such participant.

"(D) CROSS REFERENCE.—For—

"(i) provisions under which participants may elect to waive the requirements of this paragraph, and

"(ii) other definitions and special rules for purposes of this paragraph,

see section 417."

(b) DEFINITIONS AND SPECIAL RULES.—Subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new section:

"SEC. 417. DEFINITIONS AND SPECIAL RULES FOR PURPOSES OF MINIMUM SURVIVOR ANNUITY REQUIREMENTS.

"(a) ELECTION TO WAIVE QUALIFIED JOINT AND SURVIVOR ANNUITY OR QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—

"(1) IN GENERAL.—A plan meets the requirements of section 401(a)(ii) only if—

"(A) under the plan, each participant—

"(i) may elect at any time during the applicable election period to waive the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit (or both), and

"(ii) may revoke any such election at any time during the applicable election period, and

"(B) the plan meets the requirements of paragraphs (2) and (3) of this subsection.

"(2) SPOUSE MUST CONSENT TO ELECTION.—Each plan shall provide that an election under paragraph (1)(A)(i) shall not take effect unless—

"(A) the spouse of the participant consents in writing to such election, and the spouse's consent acknowledges the effect of such election and is witnessed by a plan representative or a notary public, or

"(B) it is established to the satisfaction of a plan representative that the consent required under subparagraph (A) may not be obtained because there is no spouse, because the spouse cannot be located, or because of such other circumstances as the Secretary may by regulations prescribe.

Any consent by a spouse (or establishment that the consent of a spouse may not be obtained) under the preceding sentence shall be effective only with respect to such spouse.

"(3) PLAN TO PROVIDE WRITTEN EXPLANATIONS.—

"(A) EXPLANATION OF JOINT AND SURVIVOR ANNUITY.—Each plan shall provide to each participant, within a reasonable period of time before the annuity starting date (and consistent with such regulations as the Secretary may prescribe), a written explanation of—

"(i) the terms and conditions of the qualified joint and survivor annuity,

"(ii) the participant's right to make, and the effect of, an election under paragraph (1) to waive the joint and survivor annuity form of benefit,

"(iii) the rights of the participant's spouse under paragraph (2), and

"(iv) the right to make, and the effect of, a revocation of an election under paragraph (1).

"(B) EXPLANATION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—Each plan shall provide to each participant, within the period beginning with the first day of the plan year in which the participant attains age 32 and ending with the close of the plan year preceding the plan year in which the participant attains age 35 (and consistent with such regulations as the Secretary may prescribe), a written explanation with respect to the qualified preretirement survivor annuity comparable to that required under subparagraph (A).

"(4) SPECIAL RULES WHERE PLAN FULLY SUBSIDIZES COSTS.—

"(A) IN GENERAL.—The requirements of this subsection shall not apply with respect to the qualified joint and survivor annuity form of benefit or the qualified preretirement survivor annuity form of benefit, as the case may be, if the plan fully subsidizes the costs of such benefit.

"(B) DEFINITION.—For purposes of subparagraph (A), a plan fully subsidizes the costs of a benefit if under the plan the failure to waive such benefit by a participant would not result in a decrease in any plan benefits with respect to such participant and would not result in increased contributions from such participant.

"(5) APPLICABLE ELECTION PERIOD DEFINED.—For purposes of this subsection, the term 'applicable election period' means—

"(A) in the case of an election to waive the qualified joint and survivor annuity form of benefit, the 90-day period ending on the annuity starting date, or

"(B) in the case of an election to waive the qualified preretirement survivor annuity, the period which begins on the first day of the plan year in which the participant attains age 35 and ends on the date of the participant's death.

In the case of a participant who is separated from service, the applicable election period under subparagraph (B) with respect to benefits accrued before the date of such separation from service shall not begin later than such date.

"(b) DEFINITION OF QUALIFIED JOINT AND SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11), the term 'qualified joint and survivor annuity' means an annuity—

"(1) for the life of the participant with a survivor annuity for the life of the spouse which is not less than 50 percent of (and is not greater than 100 percent of) the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(2) which is the actuarial equivalent of a single annuity for the life of the participant.

Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(c) DEFINITION OF QUALIFIED PRERETIREMENT SURVIVOR ANNUITY.—For purposes of this section and section 401(a)(11)—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'qualified preretirement survivor annuity' means a survivor annuity or the life of the surviving spouse of the participant if—

"(A) the payments to the surviving spouse under such annuity are not less than the amounts which would be payable as a survivor annuity under the qualified joint and survivor annuity under the plan (or the actuarial equivalent thereof) if—

"(i) in the case of a participant who dies after the date on which the participant attained the earliest retirement age, such participant had retired with an immediate qualified joint and survivor annuity on the day before the participant's date of death, or

"(ii) in the case of a participant who dies on or before the date on which the participant would have attained the earliest retirement age, such participant had—

"(I) separated from service on the date of death,

"(II) survived to the earliest retirement age,

"(III) retired with an immediate qualified joint and survivor annuity at the earliest retirement age, and

"(IV) died on the day after the day on which such participant would have attained the earliest retirement age, and

"(B) under the plan, the earliest period for which the surviving spouse may receive a payment under such annuity is not later than the month in which the participant would have attained the earliest retirement age under the plan.

"(2) SPECIAL RULE FOR DEFINED CONTRIBUTION PLANS.—In the case of any defined contribution plan or participant described in clause (ii) or (iii) of section 401(a)(11)(B), the term 'qualified preretirement survivor annuity' means an annuity for the life of the surviving spouse the actuarial equivalent of which is not less than 50 percent of the account balance of the participant as of the date of death.

"(d) SURVIVOR ANNUITIES NEED NOT BE PROVIDED IF PARTICIPANT AND SPOUSE MARRIED LESS THAN 1 YEAR.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a plan shall not be treated as failing to meet the requirements of section 401(a)(11) merely because the plan provides that a qualified joint and survivor annuity (or a qualified preretirement survivor annuity) will not be provided unless the participant and spouse had been married throughout the 1-year period ending on the earlier of—

"(A) the participant's annuity starting date, or

"(B) the date of the participant's death.

"(2) TREATMENT OF CERTAIN MARRIAGES WITHIN 1 YEAR OF ANNUITY STARTING DATE FOR PURPOSES OF QUALIFIED JOINT AND SURVIVOR ANNUITIES.—For purposes of paragraph (1), if—

"(A) a participant marries within 1 year before the annuity starting date, and

"(B) the participant and the participant's spouse in such marriage have been married for at least a 1-year period ending on or before the date of the participant's death,

such participant and such spouse shall be treated as having been married throughout the 1-year period ending on the participant's annuity starting date.

"(e) RESTRICTIONS ON CASH-OUTS.—

"(1) PLAN MAY REQUIRE DISTRIBUTION IF PRESENT VALUE NOT IN EXCESS OF $3,500.—A plan may provide that the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity will be immediately distributed if such value does not exceed $3,500. No distribution may be made under the preceding sentence after the annuity starting date unless the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consents in writing to such distribution.

"(2) PLAN MAY DISTRIBUTE BENEFIT IN EXCESS OF $3,500 ONLY WITH CONSENT.—If—

"(A) the present value of the qualified joint and survivor annuity or the qualified preretirement survivor annuity exceeds $3,500, and

"(B) the participant and the spouse of the participant (or where the participant has died, the surviving spouse) consent in writing to the distribution,

the plan may immediately distribute the present value of such annuity.

"(3) DETERMINATION OF PRESENT VALUE.—For purposes of paragraphs (1) and (2), the present value of a qualified joint and survivor annuity or a qualified preretirement survivor annuity shall be determined as of the date of the distribution and by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section and section 401(a)(11)—

"(1) VESTED PARTICIPANT.—The term 'vested participant' means any participant who has a nonforfeitable right (within the meaning of section 411(a)) to any portion of the accrued benefit derived from employer contributions.

"(2) ANNUITY STARTING DATE.—The term 'annuity starting date' means the first day of the first period for which an amount is received as an annuity (whether by reason of retirement or disability).

"(3) EARLIEST RETIREMENT AGE.—The term 'earliest retirement age' means the earliest date on which, under the plan, the participant could elect to receive retirement benefits.

"(4) PLAN MAY TAKE INTO ACCOUNT INCREASED COSTS.—A plan may take into account in any equitable manner (as determined by the Secretary) any increased costs resulting from providing a qualified joint or survivor annuity or a qualified preretirement survivor annuity.

"(5) CONSULTATION WITH THE SECRETARY OF LABOR.—In prescribing regulations under this section and section 401(a)(11), the Secretary shall consult with the Secretary of Labor."

(c) CLERICAL AMENDMENT.—The table of sections for subpart B of part I of subchapter D of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 417. Definitions and special rules for purposes of minimum survivor annuity requirements."

SEC. 204. SPECIAL RULES FOR ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.

(a) PROHIBITION AGAINST ASSIGNMENT NOT TO APPLY IN DIVORCE, ETC., PROCEEDINGS.—Paragraph (13) of section 401(a) (relating to assignment of benefits) is amended—

(1) by striking out "(13) A trust" and inserting in lieu thereof the following:

"(13) ASSIGNMENT AND ALIENATION.—

"(A) IN GENERAL.—A trust", and

(2) by correcting the margin for such subparagraph (A), and

(3) by adding at the end thereof the following new subparagraph:

"(B) SPECIAL RULES FOR DOMESTIC RELATIONS ORDERS.—Subparagraph (A) shall apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a participant pursuant to a domestic relations order, except that subparagraph (A) shall not apply if the order is determined to be a qualified domestic relations order."

(b) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—Section 414 is amended by adding

at the end thereof the following new subsection:

"(p) QUALIFIED DOMESTIC RELATIONS ORDER DEFINED.—For purposes of this subsection and section 401(a)(13)—

"(1) IN GENERAL.—

"(A) QUALIFIED DOMESTIC RELATIONS ORDER.—The term 'qualified domestic relations order' means a domestic relations order—

"(i) which creates or recognizes the existence of an alternate payee's right to, or assigns to an alternate payee the right to, receive all or a portion of the benefits payable with respect to a participant under a plan, and

"(ii) with respect to which the requirements of paragraphs (2) and (3) are met.

"(B) DOMESTIC RELATIONS ORDER.—The term 'domestic relations order' means any judgment, decree, or order (including approval of a property settlement agreement) which—

"(i) relates to the provision of child support, alimony payments, or marital property rights to a spouse, child, or other dependent of a participant, and

"(ii) is made pursuant to a State domestic relations law (including a community property law).

"(2) ORDER MUST CLEARLY SPECIFY CERTAIN FACTS.—A domestic relations order meets the requirements of this paragraph only if such order clearly specifies—

"(A) the name and the last known mailing address (if any) of the participant and the name and mailing address of each alternate payee covered by the order,

"(B) the amount or percentage of the participant's benefits to be paid by the plan to each such alternate payee, or the manner in which such amount or percentage is to be determined,

"(C) the number of payments or period to which such order applies, and

"(D) each plan to which such order applies.

"(3) ORDER MAY NOT ALTER AMOUNT, FORM, ETC., OF BENEFITS.—A domestic relations order meets the requirements of this paragraph only if such order—

"(A) does not require a plan to provide any type or form of benefit, or any option, not otherwise provided under the plan,

"(B) does not require the plan to provide increased benefits, (determined on the basis of actuarial value), and

"(C) does not require the payment of benefits to an alternate payee which are required to be paid to another alternate payee under another order previously determined to be a qualified domestic relations order.

"(4) EXCEPTION FOR CERTAIN PAYMENTS MADE AFTER EARLIEST RETIREMENT AGE.—

"(A) IN GENERAL.—In the case of any payment before a participant has separated from service, a domestic relations order shall not be treated as failing to meet the requirements of subparagraph (A) of paragraph (3) solely because such order requires that payment of benefits be made to an alternate payee—

"(i) on or after the date on which the participant attains (or would have attained) the earliest retirement age,

"(ii) as if the participant had retired on the date on which such payment is to begin under such order (but taking into account only the present value of the benefits actually accrued and not taking into account the present value of any employer subsidy for early retirement), and

"(iii) in any form in which such benefits may be paid under the plan to the participant (other than in the form of a joint and survivor annuity with respect to the alternate payee and his or her subsequent spouse).

For purposes of clause (ii), the interest rate assumption used in determining the present value shall be the interest rate specified in the plan or, if no rate is specified, 5 percent.

"(B) EARLIEST RETIREMENT AGE.—For purposes of this paragraph, the term 'earliest retirement age' has the meaning given such term by section 417(f)(3), except that in the case of any defined contribution plan, the earliest retirement age shall be the date which is 10 years before the normal retirement age (within the meaning of section 411(a)(8)).

"(5) TREATMENT OF FORMER SPOUSE AS SURVIVING SPOUSE FOR PURPOSES OF DETERMINING SURVIVOR BENEFITS.—To the extent provided in any qualified domestic relations order—

"(A) the former spouse of a participant shall be treated as a surviving spouse of such participant for purposes of sections 401(a)(11) and 417, and

"(B) if married for at least 1 year, the surviving spouse shall be treated as meeting the requirements of section 417(d).

A plan shall not be treated as failing to meet the requirements of subsection (a) or (k) of section 401 which prohibit payment of benefits before termination of employment solely by reason of payments to an alternate payee pursuant to a qualified domestic relations order.

"(6) PLAN PROCEDURES WITH RESPECT TO ORDERS.—

"(A) NOTICE AND DETERMINATION BY ADMINISTRATOR.—In the case of any domestic relations order received by a plan—

"(i) the plan administrator shall promptly notify the participant and any other alternate payee of the receipt of such order and the plan's procedures for determining the qualified status of domestic relations orders, and

"(ii) within a reasonable period after receipt of such order, the plan administrator shall determine whether such order is a qualified domestic relations order and notify the participant and each alternate payee of such determination.

"(B) PLAN TO ESTABLISH REASONABLE PROCEDURES.—Each plan shall establish reasonable procedures to determine the qualified status of domestic relations orders and to administer distributions under such qualified orders.

"(7) PROCEDURES FOR PERIOD DURING WHICH DETERMINATION IS BEING MADE.—

"(A) IN GENERAL.—During any period in which the issue of whether a domestic relations order is a qualified domestic relations order is being determined (by the plan administrator, by a court of competent jurisdiction, or otherwise), the plan administrator shall segregate in a separate account in the plan or in an escrow account the amounts which would have been payable to the alternate payee during such period if the order had been determined to be a qualified domestic relations order.

"(B) PAYMENT TO ALTERNATE PAYEE IF ORDER DETERMINED TO BE QUALIFIED DOMESTIC RELATIONS ORDER.—If within 18 months the order (or modification thereof) is determined to be a qualified domestic relations order, the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons entitled thereto.

"(C) PAYMENT TO PLAN PARTICIPANT IN CERTAIN CASES.—If within 18 months—

"(i) it is determined that the order is not a qualified domestic relations order, or

"(ii) the issue as to whether such order is a qualified domestic relations order is not resolved,

then the plan administrator shall pay the segregated amounts (plus any interest thereon) to the person or persons who would have been entitled to such amounts if there had been no order.

"(D) SUBSEQUENT DETERMINATION OR ORDER TO BE APPLIED PROSPECTIVELY ONLY.—Any determination that an order is a qualified domestic relations order which is made after the close of the 18-month period shall be applied prospectively only.

"(8) ALTERNATE PAYEE DEFINED.—The term 'alternate payee' means any spouse, former spouse, child or other dependent of a participant who is recognized by a domestic relations order as having a right to receive all, or a portion of, the benefits payable under a plan with respect to such participant.

"(9) CONSULTATION WITH THE SECRETARY.—In prescribing regulations under this subsection and section 401(a)(13), the Secretary of Labor shall consult with the Secretary."

(c) TAX TREATMENT OF DIVORCE DISTRIBUTIONS.—

(1) ALTERNATE PAYEE MUST INCLUDE BENEFITS IN GROSS INCOME.—Section 402(a) (relating to taxability of beneficiary of trust) is amended by adding at the end thereof the following new paragraph:

"(9) ALTERNATE PAYEE UNDER QUALIFIED DOMESTIC RELATIONS ORDER TREATED AS DISTRIBUTEE.—For purposes of subsection (a)(1) and section 72, the alternate payee shall be treated as the distributee of any distribution or payment made to the alternate payee under a qualified domestic relations order (as defined in section 414(p))."

(2) ALLOCATION OF INVESTMENT IN THE CONTRACT.—Subsection (m) of section 72 (relating to special rules applicable to employee annuities and distributions under employee plans) is amended by adding at the end thereof the following new paragraph:

"(10) DETERMINATION OF INVESTMENT IN THE CONTRACT IN THE CASE OF QUALIFIED DOMESTIC RELATIONS ORDERS.—Under regulations prescribed by the Secretary, in the case of a distribution or payment made to an alternate payee pursuant to a qualified domestic relations order (as defined in section 414(p)), the investment in the contract as of the date prescribed in such regulations shall be allocated on a pro rata basis between the present value of such distribution or payment and the present value of all other benefits payable with respect to the participant to which such order relates.".

(3) ROLLOVER OF DISTRIBUTIONS UNDER QUALIFIED DOMESTIC RELATIONS ORDERS.—Paragraph (6) of section 402(a) (relating to special rules for rollovers) is amended by adding at the end thereof the following new subparagraph:

"(F) QUALIFIED DOMESTIC RELATIONS ORDERS.—If—

"(i) within 1 taxable year of the recipient, the balance to the credit of the recipient by reason of any qualified domestic relations order (within the meaning of section 414(p)) is distributed or paid to the recipient,

"(ii) the recipient transfers any portion of the property the recipient receives in such distributions to an eligible retirement plan described in subclause (I) or (II) of paragraph (5)(E)(iv), and

"(iii) in the case of a distribution of property other than money, the amount so transferred consists of the property distributed,

then the portion of the distribution so transferred shall be treated as a distribution described in paragraph (5)(A).".

(4) CLARIFICATION OF ELIGIBILITY OF PARTICIPANT FOR LUMP SUM TREATMENT.—Paragraph (4) of section 402(e) (relating to tax on lump sum distributions) is amended by adding at the end thereof the following new subparagraph:

"(M) BALANCE TO CREDIT OF EMPLOYEE NOT TO INCLUDE AMOUNTS PAYABLE UNDER QUALIFIED DOMESTIC RELATIONS ORDER.—For purposes of this subsection, subsection (a)(2) of this section, and section 403(a)(2), the balance to the credit of an employee shall not include any amount payable to an alternate payee under a qualified domestic relations order (within the meaning of section 414(p))."

SEC. 205. RESTRICTION ON MANDATORY DISTRIBUTIONS.

(a) GENERAL RULE.—Subsection (a) of section 411 (relating to minimum vesting standards) is amended by adding at the end thereof the following new paragraph:

"(11) RESTRICTIONS ON CERTAIN MANDATORY DISTRIBUTIONS.—

"(A) IN GENERAL.—If the present value of any accrued benefit exceeds $3,500, such benefit shall not be treated as nonforfeitable if the plan provides that the present value of such benefit could be immediately distributed without the consent of the participant.

"(B) DETERMINATION OF PRESENT VALUE.—For purposes of subparagraph (A), the present value shall be calculated by using an interest rate not greater than the interest rate which would be used (as of the date of the distribution) by the Pension Benefit Guaranty Corporation for purposes of determining the present value of a lump sum distribution on plan termination."

(b) CONFORMING AMENDMENT.—Subparagraph (B) of section 411(a)(7) (relating to effect of certain distributions) is amended by striking out "$1,750" and inserting in lieu thereof "$3,500".

SEC. 206. PARTICIPANT TO BE NOTIFIED THAT BENEFITS MAY BE FORFEITABLE.

Subsection (e) of section 6057 (relating to individual statement to participants) is amended by adding at the end thereof the following new sentence: "Such statement shall also include a notice to the participant of any benefits which are forfeitable if the participant dies before a certain date."

SEC. 207. WRITTEN EXPLANATION OF ROLLOVER TREATMENT REQUIRED TO BE GIVEN TO RECIPIENT OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.

(a) GENERAL RULE.—Section 402 (relating to taxability of beneficiary of employees trusts) is amended by adding at the end thereof the following new subsection:

"(f) WRITTEN EXPLANATION TO RECIPIENTS OF DISTRIBUTIONS ELIGIBLE FOR ROLLOVER TREATMENT.—

"(1) IN GENERAL.—The plan administrator of any plan shall, when making a qualifying rollover distribution, provide a written explanation to the recipient—

"(A) of the provisions under which such distribution will not be subject to tax if transferred to an eligible retirement plan within 60 days after the date on which the recipient received the distribution, and

"(B) if applicable, the provisions of subsections (a)(2) and (e) of this section.

"(2) DEFINITIONS.—For purposes of this subsection, the terms 'qualifying rollover distribution' and 'eligible retirement plan' have the respective meanings given such terms by subsection (a)(5)(E)."

(b) PENALTY FOR FAILURE TO PROVIDE WRITTEN EXPLANATION.—Section 6652 (relating to penalty for failure to file certain information returns, registration statements, etc.) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) FAILURE TO GIVE WRITTEN EXPLANATION TO RECIPIENTS OF CERTAIN QUALIFYING ROLLOVER DISTRIBUTIONS.—In the case of each failure to provide a written explanation as required by section 402(f), at the time prescribed therefor, unless it is shown that such failure is due to reasonable cause and not to willful neglect, there shall be paid, on notice and demand of the Secretary and in the same manner as tax, by the person failing to provide such written explanation, an amount equal to the $10 for each such failure, but the total amount imposed on such person for all such failures during any calendar year shall not exceed $5,000.".

TITLE III—GENERAL PROVISIONS

SEC. 301. TREATMENT OF CERTAIN PLAN AMENDMENTS AND ACTUARIAL ASSUMPTIONS.

(a) CERTAIN PLAN AMENDMENTS TREATED AS REDUCING BENEFITS.—

(1) AMENDMENT OF INTERNAL REVENUE CODE OF 1954.—Paragraph (6) of section 411(d) of the Internal Revenue Code of 1954 (relating to accrued benefit not to be decreased by amendment) is amended to read as follows:

"(6) ACCRUED BENEFIT NOT TO BE DECREASED BY AMENDMENT.—

"(A) IN GENERAL.—A plan shall be treated as not satisfying the requirements of this section if the accrued benefit of a participant is decreased by an amendment of the plan, other than an amendment described in section 412(c)(8), or section 4281 of the Employee Retirement Income Security Act of 1974.

"(B) TREATMENT OF CERTAIN PLAN AMENDMENTS.—For purposes of subparagraph (A), a plan amendment which has the effect of—

"(i) eliminating or reducing an early retirement benefit or a retirement-type subsidy (as defined in regulations), or

"(ii) eliminating an optional form of benefit,

with respect to benefits attributable to service before the amendment shall be treated as reducing accured benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a participant who satisfies (either before or after the amendment) the preamendment conditions for the subsidy. The Secretary may by regulations provide that this subparagraph shall not apply to a plan amendment described in clause (ii) (other than a plan amendment having an effect described in clause (i)).".

(2) AMENDMENT OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Subsection (g) of section 204 of the Employee Retirement Income Security Act of 1974 is amended to read as follows:

"(g)(1) The accrued benefit of a participant under a plan may not be decreased by an amendment of the plan, other than an amendment described in section 302(c)(8).

"(2) For purposes of paragraph (1), a plan amendment which has the effect of—

"(A) eliminating or reducing an early retirement benefit or a retirement-type subsidy (as defined in regulations), or

"(B) eliminating an optional form of benefit,

with respect to benefits attributable to service before the amendment shall be treated as reducing accrued benefits. In the case of a retirement-type subsidy, the preceding sentence shall apply only with respect to a participant who satisfies (either before or after the amendment) the preamendment conditions for the subsidy. The Secretary of the Treasury may by regulations provide that this subparagraph shall not apply to a plan amendment described in subparagraph (B) (other than a plan amendment having an effect described in subparagraph (A)).".

(b) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—Subsection (a) of section 401 of the Internal Revenue Code of 1954 (relating to qualified pension, profit-sharing, and stock bonus plans) is amended by inserting after paragraph (24) the following new paragraph:

"(25) REQUIREMENT THAT ACTUARIAL ASSUMPTIONS BE SPECIFIED.—A defined benefit plan shall not be treated as providing definitely determinable benefits unless, whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions are specified in the plan in a way which precludes employer discretion.".

SEC. 302. GENERAL EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section or section 303, the amendments made by this Act shall apply to plan years beginning after December 31, 1984.

(b) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before the date of the enactment of this Act, except as provided in subsection (d) or section 303, the amendments made by this Act shall not apply to plan years beginning before the earlier of—

(1) the date on which the last of the collective bargaining agreements relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(2) January 1, 1987.

For purposes of paragraph (1), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by title I or II shall not be treated as a termination of such collective bargaining agreement.

(c) NOTICE REQUIREMENT.—The amendments made by section 207 shall apply to distributions after December 31, 1984.

(d) SPECIAL RULES FOR TREATMENT OF PLAN AMENDMENTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by section 301 shall apply to plan amendments made after July 30, 1984.

(2) SPECIAL RULE FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements entered into before January 1, 1985, which are—

(A) between employee representatives and 1 or more employers, and

(B) successor agreements to 1 or more collective bargaining agreements which terminate after July 30, 1984, and before January 1, 1985,

the amendments made by section 301 shall not apply to plan amendments adopted before April 1, 1985, pursuant to such successor agreements (without regard to any modification or reopening after December 31, 1984).

SEC. 303. TRANSITIONAL RULES.

(a) AMENDMENTS RELATING TO VESTING RULES; BREAKS IN SERVICE; MATERNITY OR PATERNITY LEAVE.—

(1) MINIMUM AGE FOR VESTING.—The amendments made by sections 102(b) and 202(b)

shall apply in the case of participants who have at least 1 hour of service under the plan on or after the first day of the first plan year to which the amendments made by this Act apply.

(2) BREAK IN SERVICE RULES.—If, as of the day before the first day of the first plan year to which the amendments made by this Act apply, section 202 (a) or (b) or 203(b) of the Employee Retirement Income Security Act of 1974 or section 410(a) or 411(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not require any service to be taken into account, nothing in the amendments made by subsections (c) and (d) of section 102 of this Act and subsections (c) and (d) of section 202 of this Act shall be construed as requiring such service to be taken into account under such section 202 (a) or (b), 203(b), 410(a), or 411(a); as the case may be.

(3) MATERNITY OR PATERNITY LEAVE.—The amendments made by sections 102(e) and 202(e) shall apply in the case of absences from work which begin on or after the first day of the first plan year to which the amendments made by this Act apply.

(b) SPECIAL RULE FOR AMENDMENTS RELATING TO MATERNITY OR PATERNITY ABSENCES.—If a plan is administered in a manner which would meet the amendments made by sections 102(e) and 202(e) (relating to certain maternity or paternity absences not treated as breaks in service), such plan need not be amended to meet such requirements until the earlier of—

(1) the date on which such plan is first otherwise amended after the date of the enactment of this Act, or

(2) the beginning of the first plan year beginning after December 31, 1986.

(c) REQUIREMENT OF JOINT AND SURVIVOR ANNUITY AND PRERETIREMENT SURVIVOR ANNUITY.—

(1) REQUIREMENT THAT PARTICIPANT HAVE AT LEAST 1 HOUR OF SERVICE OR PAID LEAVE ON OR AFTER DATE OF ENACTMENT.—The amendments made by sections 103 and 203 shall apply only in the case of participants who have at least 1 hour of service under the plan on or after the date of the enactment of this Act or have at least 1 hour of paid leave on or after such date of enactment.

(2) REQUIREMENT THAT PRERETIREMENT SURVIVOR ANNUITY BE PROVIDED IN CASE OF CERTAIN PARTICIPANTS DYING ON OR AFTER DATE OF ENACTMENT.—In the case of any participant—

(A) who has at least 1 hour of service under the plan on or after the date of the enactment of this Act or has at least 1 hour of paid leave on or after such date of enactment,

(B) who dies before the annuity starting date, and

(C) who dies on or after the date of the enactment of this Act and before the first day of the first plan year to which the amendments made by this Act apply,

the amendments made by sections 103 and 203 shall be treated as in effect as of the time of such participant's death.

(3) SPOUSAL CONSENT REQUIRED FOR CERTAIN ELECTIONS AFTER DECEMBER 31, 1984.—Any election after December 31, 1984, and before the first day of the first plan year to which the amendments made by this Act apply not to take a joint and survivor annuity shall not be effective unless the requirements of section 205(c)(2) of the Employee Retirement Income Security Act of 1974 (as amended by section 103 of this Act) and section 417(a)(2) of the Internal Revenue Code of 1954 (as added by section 203 of this Act) are met with respect to such election.

(d) AMENDMENTS RELATING TO ASSIGNMENTS IN DIVORCE, ETC., PROCEEDINGS.—The amendments made by sections 104 and 204 shall take effect on January 1, 1985, except that in the case of a domestic relations order entered before such date, the plan administrator—

(1) shall treat such order as a qualified domestic relations order if such administrator is paying benefits pursuant to such order on such date, and

(2) may treat any other such order entered before such date as a qualified domestic relations order even if such order does not meet the requirements of such amendments.

(e) TREATMENT OF CERTAIN PARTICIPANTS WHO SEPARATE FROM SERVICE BEFORE DATE OF ENACTMENT.—

(1) JOINT AND SURVIVOR ANNUITY PROVISIONS OF EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974 APPLY TO CERTAIN PARTICIPANTS.—If—

(A) a participant had at least 1 hour of service under the plan on or after September 2, 1974,

(B) section 205 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) would not (but for this paragraph) apply to such participant,

(C) the amendments made by sections 103 and 203 of this Act do not apply to such participant, and

(D) as of the date of the enactment of this Act, the participant's annuity starting date has not occurred and the participant is alive,

then such participant may elect to have section 205 of the Employee Retirement Income Security Act of 1974 and section 401(a)(11) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) apply.

(2) TREATMENT OF CERTAIN PARTICIPANTS WHO PERFORM SERVICE ON OR AFTER JANUARY 1, 1976.—If—

(A) a participant had at least 1 hour of service in the first plan year beginning on or after January 1, 1976,

(B) the amendments made by sections 103 and 203 would not (but for this paragraph) apply to such participant,

(C) when such participant separated from service, such participant had at least 10 years of service under the plan and had a nonforfeitable right to all (or any portion) of such participant's accrued benefit derived from employer contributions, and

(D) as of the date of the enactment of this Act, such participant's annuity starting date has not occurred and such participant is alive,

then such participant may elect to have the qualified preretirement survivor annuity requirements of the amendments made by sections 103 and 203 apply.

(3) PERIOD DURING WHICH ELECTION MAY BE MADE.—An election under paragraph (1) or (2) may be made by any participant during the period—

(A) beginning on the date of the enactment of this Act, and

(B) ending on the earlier of the participant's annuity starting date or the date of the participant's death.

(4) REQUIREMENT OF NOTICE.—

(A) IN GENERAL.—

(i) TIME AND MANNER.—Every plan shall give notice of the provisions of this subsection at such time or times and in such manner or manners as the Secretary of the Treasury may prescribe.

(ii) PENALTY.—If any plan fails to meet the requirements of clause (i), such plan shall pay a civil penalty to the Secretary of the Treasury equal to $1 per participant for each day during the period beginning with the first day on which such failure occurs and ending on the day before notice is given by the plan; except that the amount of such penalty imposed on any plan shall not exceed $2,500.

(B) RESPONSIBILITIES OF SECRETARY OF LABOR.—The Secretary of Labor shall take such steps (by public announcements and otherwise) as may be necessary or appropriate to bring to public attention the provisions of this subsection.

SEC. 304. STUDY BY COMPTROLLER GENERAL OF THE UNITED STATES.

(a) GENERAL RULE.—The Comptroller General of the United States shall conduct a detailed study (based on a reliable scientific sample of typical pension plans of various designs and sizes) of the effect on women of participation, vesting, funding, integration, survivorship features, and other relevant plan and Federal pension rules.

(b) GENERAL ACCOUNTING OFFICE ACCESS TO RECORDS.—For the purpose of conducting the study under subsection (a), the Comptroller General, or any of his duly authorized representatives, shall have access to and the right to examine and copy—

(1) any pension plan books, documents, papers, records, or other recorded information within the possession or control of the plan administrator or sponsor, or any person providing services to the plan, and

(2) any payroll, employment, or other related records within the possession or control of any employer contributing to or sponsoring a pension plan,

that is pertinent to such study. The Comptroller General shall not disclose the identity of any individual or employer in making any information obtained under this subsection available to the public.

(c) DEFINITIONS.—For purposes of this section, the terms "pension plan", "administrator", "plan sponsor", and "employer" are defined in section 3 of the Employee Retirement Income Security Act of 1974, as amended.

(d) COOPERATION WITH OTHER FEDERAL AGENCIES.—In conducting the study under subsection (a), the Comptroller General shall consult with the Internal Revenue Service, the Department of Labor, and other interested Federal agencies so as to prevent any duplication of data compilation or analyses.

(e) REPORT.—Not later than January 1, 1990, the Comptroller General shall submit a report on the study conducted under this section to the Committee on Ways and Means of the House of Representatives, the Committee on Education and Labor of the House of Representatives, the Committee on Finance of the Senate, the Committee on Labor and Human Resources of the Senate, and the Joint Committee on Taxation.

Mr. DOLE. Mr. President, today I urge my colleagues to adopt H.R. 4280, the Retirement Equity Act of 1984, as amended. The Retirement Equity Act was originally reported by the Committee on Finance on October 24, 1983, and passed by the Senate in November of last year. H.R. 2769 was originally the legislation enacting the President's Caribbean Basin Initiative.

H.R. 4280, passed by the House on May 24, is based upon the legislation the Senate adopted last year. The House made some technical modifications to the original Senate bill and expanded the survivor coverage and certain other protection provided in that bill for plan participation and their spouses. For that reason, the Finance Committee once again marked up the Retirement Equity Act to refine further the provisions based upon review by the Treasury Department and the Labor Department, and to reflect comments of experts from the private sector.

The Retirement Equity Act, as amended, would eliminate or change administrative requirements imposed by the House bill, as well as address certain concerns expressed about the interpretation of the accrued benefit rule in the House bill. The amendments would make it clear that the accrued benefit rule would not apply to certain Social Security supplements, death benefits (including life insurance), qualified disability benefits and other benefits.

H.R. 4280 is an excellent measure to protect the retirement income of all Americans, and the revisions adopted by the Committee on Finance resolve the technical concerns that have been raised about the legislation. The Finance Committee and Joint Tax Committee staffs have worked carefully with the staffs of the Labor Committee and House Ways and Means and Education and Labor Committees to help assure that this will be a consensus effort which may be accepted by the House quickly without the need of a conference.

SENATE PASSAGE OF PENSION EQUITY ACT IN 1983

The Retirement Equity Act of 1983 was passed by the Senate on November 17, 1983, over 5 months before House passage. The act represents the efforts of many Members to achieve pension equity for women. With over 30 cosponsors, it has strong bipartisan support. The act reflects not only the provisions of S. 19, legislation originally introduced by Senator LONG and myself early in 1983, but also the many ideas expressed in the administration's bill, the work of the Senate Labor and Human Resources Committee, as well as the proposals of a number of Senators who have been leaders in the area of pension reform.

HOUSE ACTIVITY IN 1984

As in the Senate, numerous pension reform proposals have been discussed in the House of Representatives, including the Senate-passed bill and a similar bill proposed by the administration. The House considered and reconsidered various alternatives to the Senate bill, and I am gratified to see that, with very few exceptions, the final House-passed version incorporated all of the principal features of the Senate bill.

PROPOSED COMPROMISE

The legislation in its present form represents a compromise of the Senate and House bills that I believe provides a balanced reform measure.

Both bills lowered the maximum allowable age limitation for plan participation purposes from 25 to 21, and for vesting from age 22 to 18. The compromise also includes the House provision that lowers the participation age from 30 to 26 for plans of certain educational institutions. These are major improvements that will assure that more employees will receive pension credit for the years they work for their employer.

The compromise alters certain rules that have in some cases allowed pension plans to ignore the changing needs of women and others in the work force. In addition to the provisions of both bills that amend the break-in-service rules to prevent loss of participation credits before a break of 5 consecutive years, the compromise agrees to a House provision that gives similar protection for vested service. Clarifications are made in the provisions that make it easier for individuals to take maternity/paternity leave without loss of service credit.

SURVIVOR BENEFITS

The compromise also incorporates an important provision of the Senate bill dealing with the joint and survivor annuity rules and broadens its application. The Senate bill contained a rule designed to ensure that the spouses of participants nearing retirement (generally, those who had reached age 45 and had 10 years of service) would be entitled to survivor coverage; thus, benefits of participants nearing retirement would not be denied to the spouse due to the participant's death, as long as the participant and the spouse did not waive survivor coverage. The compromise liberalizes this rule to provide preretirement survivor coverage for all participants who have a vested right to benefits, regardless of their age of years of service.

In addition, the compromise repeals a rule that allows plans to ignore certain elections—or revocations—to waive a joint and survivor annuity if the election is made within 2 years of death from natural causes.

In order to ensure that the change in the survivor rules will have their intended effect, the compromise also explicitly requires defined benefits plans and certain defined contribution plans to provide life annuity—and as a result, survivor—benefits. In general, defined contribution plans that pay out the vested account benefits upon death and meet certain other requirements are not subject to this rule, nor are benefits from defined contribution plans to the extent they are payable in employer stock.

ACCRUED RETIREMENT BENEFITS

The compromise also helps assure that employees who have accrued retirement benefits will not lose these benefits when an employer amends or terminates a pension plan. I would point out that the legislation now before the Senate clarifies a provision of the House bill which was probably rightly criticized for being too vague and broad in its potential application.

In particular, the compromise clarified that certain nonretirement type benefits, such as Social Security supplements, qualified disability benefits, death benefits—including life insurance—medical and plant shutdown benefits to the extent they do not continue after normal retirement age, are not considered a part of a participant's accrued benefits for purposes of the provisions. The provision does not affect the liability of the Pension Benefit Guaranty Corporation with respect to benefits under terminated plans. Also, the provision does not require that an employer make contributions to a terminated plan beyond the level required under present law.

Section 301 of H.R. 4280 deals with the prohibition against certain changes in subsidized early retirement benefits or optional forms of benefits. This provision is to be effective with respect to plan amendments made after July 30, 1984. I have three points to make about this section.

First, it is my understanding that this provision is not intended to apply to amendments made on or before July 30, 1984, and that no inference is to be drawn from them as to prior law. In particular, this provision would not affect any current litigation with respect to plan amendments adopted before July 30, 1984.

Second, it is my understanding that an amendment is "made" when it is adopted, not when it is effective. Thus, for example, an amendment adopted June 1, 1984, but to become effective September 1, 1984, would generally not be subject to the new provision. The technical explanation of the bill, which is contained in the CONGRESSIONAL RECORD of August 2, 1984, states that a plan provision that takes effect as a result in the change in the status of the plan from topheavy to nontopheavy is treated as a plan amendment at the time the specified event occurs.

Third, section 301 permits the issuance of regulations which provide that the new rules "will not apply to an amendment described in clause (ii) [i.e., eliminating an optional form of benefit] (other than a plan amendment having an effect described in clause (i) [i.e., eliminating an early retirement benefit or a retirement-type subsidy]."

The technical explanation of section 301 gives an example of an elimination

of an option with respect to previously accrued benefits that Treasury may permit. In this example, an option must be eliminated as a condition for meeting the standards for qualification of the plan. For example, a form of survivor benefit offered may allow a payout period for a length of time longer than that allowed under section 401(a)(9) of the Internal Revenue Code, as amended by the Deficit Reduction Tax Act of 1984. I would anticipate that Treasury regulations may allow plans to change that option to shorten the payout period in my example, and that any subsidy included in the longer payout option might be allowed to be eliminated to the extent necessary to qualify the plan, but that the regulations would not automatically allow elimination of an entire option merely because a particular feature of the option violates the requirements for plan qualification.

PENSION BENEFITS UPON DIVORCE

The compromise adopts the rule in both bills that specifically states that ERISA does not preempt State laws if pension benefits are divided between a participant and spouse under a qualified domestic relations order. Specific requirements for qualifying domestic relations orders are established.

OTHER PROVISIONS

The compromise increases from $1,750 to $3,500 the mandatory amount that may be distributed in a lump sum to a departing participant without consent.

The compromise would also require more stringent notice and consent procedures regarding the availability of preretirement survivor benefits, and requires plan administrators to advise recipients of plan distributions that certain favorable tax treatment, such as tax/free rollover treatment and special 10-year income averaging, is available if proper actions are taken.

Finally, special effective dates are provided to expand the class of individuals entitled to joint and survivor coverage to include certain persons who have already terminated employment. I understand that there have been some concerns expressed by employer groups and the pension administrators that this retroactive coverage would impose impossible administrative burdens and additional liability on plan administrators, but I believe that the compromise adequately deals with these concerns, by requiring the terminated employees to advise the plan of this election and by allowing the plan to pass any additional costs to the particular beneficiaries.

NEED FOR QUICK ACTION

The provisions of this legislation require immediate action. Both the House and Senate bills encourages earlier participation and vesting in retirement plans, as well as improving survivor and other benefits. Postponement of the legislation postpones these benefits for all concerned.

In addition, the retirement plan sponsors themselves need these issues resolved in order to be able to adapt their plans to include these important provisions in the future. Generally, the bill is effective for plan years beginning after December 31, 1984. This early effective date is important to assure that the benefits of this legislation will be available as soon as possible. In all fairness, however, we should give plan sponsors as much time as possible to analyze this legislation to determine what changes in plan provisions and administrative procedures will be necessary.

THE BROADER VIEW OF PENSION REFORM

I believe that this legislation, in particular the more generous participation and vesting rules, will significantly improve the likelihood that women and others whose work patterns do not fit into the traditional mode will actually receive a retirement benefit. Moreover, survivor protection for spouses who work in the home is increased substantially, indicating at last some recognition of these spouses' contributions to their families and to society.

Both this legislation and the reforms we made in TEFRA governing "top-heavy" plans, illustrate two general types of reform measures that have begun. First, the topheavy legislation was an attempt to ensure that the tax benefits granted to retirement plans are used to provide benefits for all employees, not just the highly paid employees. Second, the reforms in this bill reflect the need to revise our retirement system to accommodate new workers and new work patterns as well as to assure that all employees receive pension credits for the years they actually work, not for just a portion of their career with an employer.

Some critics have said that these reforms are minor, and propose broader reform. I do not disagree that additional proposals should be seriously considered. But I believe that the concrete steps we have taken in the area of pension reform, in terms of actual legislation enacted, will have both important immediate effects and will, indeed, establish new concepts about the need for and use of retirement benefits.

In 1982, we requested a study from the Congressional Budget Office regarding the most effective use of retirement incentives. This bill requests a further study by the GAO of the effect on women of certain current Federal pension requirements, such as the participation, vesting, funding, integration and survivorship rules. With the new concepts established by the reforms we have accomplished, and future input from interested groups and individuals, the pension community, the CBO, and GAO, I anticipate that additional reform for all individuals will be continued in the future.

Mr. LONG. Mr. President, I am delighted that we were able to agree today to approve legislation designed to remedy many of the inequities that women face in pensions. This bill reflects the concerns of Members in both the House and the Senate who are aware of the disadvantages that women often suffer due to the operation of current law. This bill represents a bipartisan attempt to address many of these inequities in a manner designed to reflect both the legitimate concerns of pension plan sponsors and the reasonable expectations of pension plan participants.

This legislation should improve the chances that women will have an opportunity to earn pension benefits while working. It also helps ensure that the retirement benefits workers expect to be there on retirement are in fact there.

This bill originated in the Senate as S. 19, which I was proud to cosponsor January 26, 1983, with the distinguished Finance Committee chairman, BOB DOLE. On October 19, 1983, Senator DOLE and I introduced a revised version of that bill as S. 1978. Joining us as cosponsors were the distinguished chairman, Mr. HATCH, and the distinguished ranking member, Mr. KENNEDY, of the Committee on Labor and Human Resources along with 27 other Members from both sides of the aisle.

S. 1978 included the provisions of S. 19 and also reflected the thoughts of other Senators who have introduced legislation in this area. The administration's ideas were also incorporated in that bill. S. 1978 was approved by the Senate on November 18, 1983 (as S. 2769). This bill reflects a further refinement of those ideas, a refinement designed to reflect the concerns not only of the Senate but also of Members in the House, particularly those with an interest who serve on the House Ways and Means Committee and the House Education and Labor Committee.

The Finance Committee approved this bill as a much-needed solution to correcting many of the problems confronting women in the work force. It is my hope that this bill will achieve a large measure of pension equity without creating undue costs and administrative burdens for plan sponsors. This bill represents an approach that addresses the concerns of plan sponsors while still advancing the bill's very worthwhile objectives.

● Mr. PERCY. Mr. President, as an original cosponsor of the Retirement Equity Act of 1983, I am extremely pleased that my distinguished colleague, Senator ROBERT DOLE, has asked the full Senate to consider similar legislation today. This legislation

would amend the Employee Retirement Income Security Act of 1974 [ERISA] to remove barriers which have historically prevented women from achieving pension equity with men. I believe that this legislation is long overdue.

Congress first enacted ERISA a decade ago to protect the interests of employees covered by private pension plans and their beneficiaries. Unfortunately, ERISA has not protected the interests of our Nation's women. Although ERISA does not distinguish between male and female employees, the provisions of this law are greatly inadequate to provide retirement income security for a significant number of women.

It is common knowledge that the percentage of employed women who receive pension benefits is significantly lower than that of men, and that the amount of pension money is generally much smaller than that received by men. There are many reasons for this inequity. Not only are women concentrated in occupations which have low pension coverage, but women who choose to interrupt their careers to raise children can be penalized under current law. Of course, employment trends for women are changing but these changes are slow, and there will remain employment behavior that is unique to women. The Retirement Equity Act takes into consideration the employment patterns particular to women by lowering the age for plan participation so that women can count the years of heaviest labor force participation, and liberalizing the break-in-service rules.

Under ERISA, the choice of a survivor's option is solely the employee's and there are no provisions for the spouse in the case of a retiree's death. On numerous occasions I have heard from widows in my home State of Illinois who are unable to provide for their basic needs because their spouse died before retirement or they were not included in their retired spouse's plan as a beneficiary. This bill would require notification of forfeiture of vested benefits upon an employee's death should the participant die before a particular date and provides that both the spouse and the participant must elect to waive a survivor option.

In recent years we have seen a skyrocketing divorce rate that has left many women in harsh economic straits, particularly older women who have spent their lifetimes as homemakers. This legislation would allow pension funds to be treated as joint property in divorce proceedings. I quote one of my constitutents who has been greatly disserviced by the present law:

> At the time of my divorce, after twenty-five years of marriage, my husband left his job with over $62,000 in pension, all of which he cashed in. He did not pay the taxes on this money. Therefore, a lien was placed on our home which was court ordered sold to pay back taxes which were in excess of $8,000.00. The judge ruled that it was his pension and he was entitled to all of it, but I was penalized to pay the back tax due on it by taking the money out of the escrow in our home. * * * My hope is only that you are able to reflect on some of the things that are happening to people like myself.

It is indeed time that Congress reflected on the pension rights of women. I commend my colleagues who have been working diligently to correct the present inequities so that we can bring justice into the lives of retired women.●

● Mr. DURENBERGER. Mr. President, pension equity is a most significant addition to our efforts to remove economic discrimination against women in our society. I am pleased to see this important piece of legislation brought to the Senate floor today.

For a number of years I have been troubled by the lack of pension equity faced by women in America. I was disturbed because almost every woman in this country will face one or more of the following pension inequities at some time in her working life: Longer work requirements for pension vesting and participation rights; termination of survivorship benefits; denial of pension survivorship benefits; and loss of accrued benefits due to break-in-service requirements.

The Economic Equity Act of 1981, which I introduced in the 97th Congress with Senators PACKWOOD, HATFIELD, HART, and others, contained a number of proposals to eliminate pension discrimination. These provisions were reintroduced in the Economic Equity Act of 1983—S. 888—and hearings were held in the Senate Finance Committee in June to ascertain the extent of this discrimination.

Mr. President, those hearings reinforced my belief that we must eliminate the economic discrimination which confronts women in America today—specifically with respect to pensions, but also in the areas of dependent care, child support enforcement, insurance, regulatory reform and taxation. Women have been the subject of economic inequity for 200 years—we must act now to remove the economic barriers which they confront.

Successful consideration of pension reform is an important beginning. I am pleased that most of the provisions of the bill were contained in the Economic Equity Act of 1983. Many were also part of Senator DOLE's pension equity bill, S. 19, and other legislation introduced by concerned Members of this body and the House of Representatives.

This bill will remove pension discrimination against women in the following ways:

It reduces the minimum age of pension participation age from 25 to 21, and it lowers the minimum age of vesting from 22 to 18.

These changes are significant for women because more women under age 25 are employed outside the home than any other age bracket. It is also true that women are more likely than men to leave the work force in their twenties or thirties.

It would ensure that individuals who temporarily leave their jobs would not lose their pension rights for prebreak periods of service. It would also provide additional protection for women and men who take maternity/paternity leave.

It would require that survivor's benefits be provided in the event of the death of a plan participant without requiring that the participant survive to age 55—which currently penalizes many deserving recipients.

This addresses the serious problem faced by many women whose husbands die prematurely and who find themselves without survivor's benefits.

It would establish joint and survivor's annuity benefits as the normal type of benefit payout for any plan which offers an annuity as an optional form of benefit. Should a married couple desire to waive the right to such survivor's benefits, they will be required to do so in writing.

This change will help ensure that a spouse will no longer unknowingly find himself or herself without survivor's benefits.

It would allow for equitable division of pension accounts in court-ordered divorce actions.

It would require individual benefits statements to include a notice to participants identifying when vested benefits may be forfeited.

I am encouraged by the attention being devoted to the pension issue, but continue to believe the most effective way for Congress to address pension discrimination is to pass the entire Economic Equity Act with all its other reinforcing provisions.

Mr. President, I hope we will continue to take action, during the duration of the 98th Congress, to enact other provisions of the Economic Equity Act. We must move to increase the availability of dependent care by expanding the dependent care tax credit. We should follow the example of the U.S. Supreme Court and remove all insurance discrimination that currently exists. Finally, we should extend the reform in public pensions to the Civil Service Retirement System.

Mr. President, 1964 was a historic year for the civil rights movement. Twenty years later we have an opportunity to make 1984 a historic year for promoting economic equity for women in America.

Passage of the pension reform is a promising first step. I urge my colleagues to support this important measure.●

● Mr. GRASSLEY. Mr. President, as an original sponsor of the Retirement Equity Act, I strongly urge its approval by all of my colleagues.

On my trips home to Iowa, many women have questioned me about provisions within the bill. Unfortunately, many of these constituents are concerned about the effective date provisions. Some of them have had family tragedies and are seeking information on the effective date for the joint and survivor annuity provisions. While individuals whose spouses have died before congressional action won't be protected by the provisions within this bill, it is imperative we enact this legislation as quickly as possible.

The important features of this legislation offer all retirees the hope of a better, more comprehensive private pension system. First, the age for qualifying for a pension is lowered from 25 to 21. Once a worker enters a qualifying period, he or she accumulates years toward vesting. To permit workers to qualify earlier helps all younger employees, but it gives women added flexibility if they wish to begin families during their late twenties or early thirties. Also, this bill provides for up to 1 year of absence due to the birth of a child without losing credit for prior service. Third, this bill permits Federal pensions to be subject to State property laws on divorce. Finally, it requires pensions to have a joint and survivor option which can be waived only with the consent of both spouses.

This bill redresses some inequities that should have been addressed years ago. It provides important safeguards for workers and expands the class of people eligible for private pensions. It should be enacted immediately to prevent any additional harsh results from occurring. I ask my colleagues to favorably consider this bill.●

Mr. EXON. Mr. President, I am pleased to cosponsor and lend my support to H.R. 4280, the Women's Pension Equity Act of 1984.

This legislation brings the Federal pension law known as ERISA into the 1980's, recognizing the changes which have occurred in the Nation's work force, particularly with regard to America's women workers. In 1974, when ERISA was first enacted, women comprised about 39 percent of the Nation's work force and about 38 percent of Nebraska's work force. Today in 1984, 10 years later, women make up over 50 percent of the Nation's work force and nearly 45 percent of Nebraska's working population.

The measure before the Senate is the first Federal effort aimed at improving private pension benefits for women. This bill attempts to address the ever-increasing problem where women are facing old age without adequate retirement protections. The current law oftentimes penalizes women for leaving the work force to bear children and to raise a family. As a consequence, they are left with little or no retirement income with which to enjoy their later years.

The Women's Pension Equity Act makes several changes for those pension plans regulated by Federal law which improve the retirement outlook for both working women and those homemakers dependent upon their spouse's pension plan.

The bill lowers from age 25 to age 21 the minimum age at which any employee may participate in a pension plan. This is important in that it recognizes that many women, as well as men, enter the work force at an earlier age. In addition, the bill reduces the age at which the 10-year vesting credit period begins from age 22 to age 18.

Another important change which this legislation makes is to protect the accrued pension rights of those who take maternity or paternity leave. Under present law, for example, a woman returning to work after a maternity leave may find that she has lost all credits for previous service with that same employer.

Other important changes include a requirement that defined benefit or money purchase pension plans provide automatic survivor benefits where a vested participant may die before the annuity starting date. Currently, women whose husbands die before reaching retirement age receive no pension at all even if their husband worked for a company for 25 years. Both spouses must consent in writing to waive automatic survivor benefits. Present law allows waiver of survivor benefits without even informing one's spouse.

These changes are certainly no means a "cure-all" for the retirement needs of American women. Many of the changes in this legislation may even benefit men. But it is an important recognition of the disparities and needs in today's society of more working women. This is an appropriate beginning in addressing the problem we find today where more and more women are finding themselves in an old age of poverty, living meagerly on minimum Social Security benefits.

Mr. President, I urge the Senate's support for this important measure.

Mr. HATCH. Mr. President, I am very pleased that the Senate is able to take expeditious action on this important measure which is designed to bring about a greater degree of equity for women and men in our Nation's private pension system. The distinguished chairman of the Finance Committee, Mr. DOLE, deserves tremendous credit for taking the lead in this important area, as well as Mr. NICKLES, the distinguished chairman of the Labor Subcommittee. At the onset of the 98th Congress, Senator DOLE introduced S. 19. This measure was jointly referred to both the Labor Committee and the Finance Committee, as has been the custom with respect to measures proposing amendments to the Internal Revenue Code and the Employee Retirement Income Security Act of 1974 (ERISA). Over the last year and a half, both committees held hearings on the legislation and on the subject of women's pension equity in general.

The evidence gathered from these hearings reinforced the need to enact the changes proposed in S. 19 and, in addition, pointed up additional problems. There emerged from the hearings and from the extended negotiations among the committees, the administration, and various interests groups a revised proposal (S. 1978), which Senator DOLE and over 30 other cosponsors, including this Senator from Utah, introduced on October 19, 1983. Ultimately, the substance of this measure was added to H.R. 2769, which was passed by the Senate and returned to the other body last fall. Since then, the legislation has undergone further refinement. H.R. 4280 is the final product. It was recently passed by the House, and in the Senate has undergone certain technical revisions under the scrutiny of the Finance Committee.

On balance, no one can quarrel with the need to make our Nation's pension system gender neutral. As regulated by ERISA, the system in the past has not taken in account the unique circumstances which women in the work force face. They generally enter the work force at a younger age than men. They are more mobile, not staying with the same employer for as long a period of time as men. They often leave the work force for periods of time to have children and raise a family. Under current law, these circumstances often operate to diminish the amount of pension benefits a women can accrue.

Moreover, current law has created hardships on women as spouses of working husbands. If a husband dies prematurely, before reaching retirement age, whatever accrued benefits he may have earned are extinguished. This can leave a wife without the benefit of expected benefits which she and her husband would have enjoyed had he lived to retirement age. Current law has also imposed hardships in the divorce situation, a hardship in and of itself. In the quest to make ERISA the premier body of law governing pensions, the Congress enacted a very broad rule of preemption, thus preventing interference by the operation of State law. A problem has arisen, however, with respect to do-

mestic relations, which in our Federal system has remained within the province of the States. The ERISA preemption rules have frustrated efforts by State courts to settle property rights in the context of divorce proceedings. Women in many instances have not been able to realize their legitimate expectations to share in the pension benefits earned by their working spouses.

The bill addresses these foregoing problems in a comprehensive way. The minimum participation and vesting rules are modified, as well as break-in-service rules, so as to enable more women to qualify for pension benefits and to avoid the loss of otherwise accrued benefits. It mandates the payment of survivor benefits if the participant was vested at the time of death. It clarifies that pension benefits can be allocated in the context of divorce proceedings. In addition, the bill requires plans to provide automatically joint and survivor benefits unless both the participant and the spouse consent in writing to waive this right.

As much merit as there is in these and other changes in ERISA, I think it is appropriate at this point to express a note of caution. Our Nation's private pension system is a voluntary one. Employers are not required to adopt a pension system. Even a unionized employer, while it is required to bargain over the subject of pensions, may ultimately bargain to impasse over the issue of whether to adopt a pension plan. And the law will not impose such a condition of employment on an employer. Just as the National Labor Relations Act will not impose a pension on an unwilling employer neither will ERISA. The thrust of ERISA is that once an employer does adopt a pension plan, the plan must be administered and funded in such a way as to realize for employee participants their expectations of a pension benefit upon retirement.

As we strive earnestly to assure to participants the "benefit of the bargain," we must not lose sight of the burdens which we impose upon employers. Whether we like it or not, the moment that the rules governing pensions become too burdensome, too costly, too complex, employers may simply choose not to sponsor a defined benefit pension. It may even choose to terminate a defined benefit plan, and replace it with a defined contribution plan, or some other, more simplified substitute. More than likely, an employer may simply begin to phase out elements, such as early retirement subsidies, on the ground that the advantages which flow from such options may not be justified by the costs imposed by regulation.

It remains to be seen whether there are elements of H.R. 4280 which pose such a risk. Some employers have raised questions about a provision (section 301) governing subsidies. This provision was inserted by the House in order to provide a statutory basis, where none existed before, for some regulations issued by the Treasury Department over the last several years. While the Finance Committee's report does articulate the limits of this provision, its actual impact will be difficult to gauge, in part because the provision was never the subject of hearings or public scrutiny.

As the Congress moves toward further refinement of ERISA future, I hope that we do not lose sight of the essential voluntariness of the system. Without question, private pensions have been an invaluable component of this country's economic security. It has been beneficial to millions of workers and families and in turn benefical to the well-being of society. Let's not kill the goose that has laid the golden egg.

Mr. DOMENICI. Mr. President, I rise today in support of the Retirement Equity Act of 1984, as amended and passed unanimously by the Finance Committee. It is important that Congress pass this legislation to correct problems in private pension programs that have resulted in inequities for women.

Senator DOLE and I introduced S. 19, the original pension equity measure in the Senate. These figures tell the story of the serious need for legislation: In 1979, only 40 percent of women working full time in private industry were covered by a pension plan; and, in 1979, only 5 to 10 percent of surviving spouses actually received their spouses' pension benefits.

This consensus bill will take care of major problems for a number of people, but the bill's impact on women in particular will be great.

The bill lowers the age of mandatory participation in pension plans to 21. Half of the existing pension plans require that an employee be older than 21 to participate. Earlier vesting will help women as well as men. About 978,000 full-time young workers whose jobs are covered by a pension plan would be affected by reducing the participation standard to age 21, 553,000 women and 425,000 men.

The bill's impact on women will be greater. Changes will increase the number of full-time workers participating in private pension plans by about 3.2 percent, including a 6.4-percent increase for women and a 2-percent increase for men.

Women also have higher labor force participation rates at earlier ages, so earlier vesting will have a greater impact on women.

Besides making it easier to vest, this legislation will make it easier for participants to leave their jobs—for limited periods of time—without losing credit for pension years already earned. The legislation will make it easier for participants to take maternity or paternity leave and receive limited credit toward their pensions and for women to receive survivor annuity benefits, among other changes beneficial to women.

Put simply, this legislation is designed to modify aspects of private pension plans that make it difficult for women in particular to qualify for retirement benefits. It is my hope that this bill receives swift passage in the House and the Senate.

Mr. HEINZ. Mr. President, once again, we have before us that milestone in the effort to provide economic equity for all our citizens, the Retirement Equity Act of 1984. As an original cosponsor of nearly identical legislation, H.R. 2769, I would like to commend the leadership of the chairman of the Senate Finance Committee, my good friend Senator DOLE, in shepherding this legislation down its long road to passage.

As chairman of the Special Committee on Aging, I am all too well aware of the income needs of our Nation's older citizens. As we all know, poverty among the elderly is predominantly the poverty of women. Fully three-fourths of the elderly poor are single women. In 1979, 35 percent of women were covered by a pension, compared to 55 percent of men. Those women who did receive a pension received benefits approximately half that of their male counterparts.

Our private pension system rewards a certain kind of worker, one whose employment is fulltime, long-term and uninterrupted. Because they are often the primary home and child caretakers, women's work patterns often put them at a decided disadvantage. Although women's labor force participation has doubled in the last quarter century, a third of the women aged 20 to 54 are not in the paid labor force. Those who do work often take time out to have children, or work part time in order to fulfill the dual roles of wife/mother and employee. It is unfortunately still true that women are compensated an average of 59 cents for every dollar earned by a man.

The situation is even more serious in the case of women who never enter the workforce and whose benefits are based on their status as dependents of wage earning spouses. Death, disability, and divorce diminish, and too often deprive these women of retirement income which their spouses have earned, and which they have earned by their contribution to the home and family.

H.R. 4280 contains important provisions both for women who work outside the home, and women who do not. The bill ensures that all employees earning an annuity benefit will be provided with mandatory joint and survivor coverage once the employee has 10

years of vested service. Currently joint and survivor coverage is mandatory only once the employee reaches the age of 65, though he may elect joint and survivor coverage at the firm's early retirement age.

Hearings in the Senate and the House have provided ample evidence of cases of women whose husbands died too soon—1 year, 3 months, even 4 hours—before they could have provided survivor coverage for them. But the problem has been even larger. The Employee Retirement Income Security Act contained no provisions regarding joint and survivor coverage for spouses of disabled employees. This summer I received a letter from a woman in Pennsylvania whose husband had retired on disability after 37 years of service. He died at 63, but was never offered the option of providing a survivor benefit to his wife, despite his long years of employment. This situation is an unjust one, and one that will no longer be permitted under the legislation before us today.

The Retirement Equity Act requires that no matter what the reason for separation from employment, be it untimely death, disability, or simply a change of employers, an employee who has 10 years service must be provided a joint and survivor annuity, unless the couple elects out of it. This bill further recognizes the significant contribution of spouses who choose to remain at home full time by requiring that joint and survivor coverage cannot be signed away without their consent.

In addition, the Retirement Equity Act all but does away with the anomalous 2-year nonaccidental death rule which formerly prohibited the assignment of survivor benefits by any employee who died within 2 years after electing such coverage. Unfortunately the rule still penalizes those hopefully few employees and their spouses who first opt out, then seek to retrieve survivor protection, but die before the passage of 2 years.

This legislation takes steps to correct the inequitable treatment of spouses who are divorced from their employed spouses. Today pensions are not universally considered community property. Courts often consider the pension as the sole property of the individual who earned it. Thus, in domestic relations courts, the pension, often the couple's largest asset, has been held inviolate.

H.R. 4280 makes it clear that ERISA language was never intended to preclude division of the pension as community property in domestic relations orders. It requires that a qualified order be honored by a pension fund. Further, a spouse need no longer be married to the employed spouse at the time of retirement in order to receive a benefit, and if the employed spouse should die before reaching retirement age, the divorced spouse is still entitled to a survivor benefit. Finally, the bill contains provisions to ensure that the divorced spouse is informed that this benefit can be rolled over into an IRA in order to defer tax liability.

In view of the changing work patterns of women in America, I believe that the provisions of this bill for working women are most significant. First, this bill lowers the minimum age for participation under ERISA from 25 to 21. Second, it lowers the minimum age for vesting from 25 to 18. Most importantly, this bill provides that breaks in service of up to 5 years will not deprive an employee with less than 5 years of service of credit for participation or vesting purposes. Additionally, the bill provides for a year of maternity/paternity leave regardless of the employee's participation and vesting status.

Mr. President, there has been little progress in recent years in increasing wages for women overall. As more and more women earn their own pension benefits through increased participation in the workforce, we in the Congress have a responsibility to ensure that today's inequities are not magnified in retirement.

There are no doubt provisions which some would wish were included in this legislation. On the whole however, this is a giant, long-awaited step forward in economic equity for women in retirement. It is not the first step, nor will it be the last. I urge my colleagues in the Senate to support this important measure.

Mr. D'AMATO. Mr. President, I am pleased that we are finally returning to the Pension Equity Act. The Senate passed this legislation on November 18, 1983. It has taken over 8 months for the House to act on the legislation and send it to conference. Unfortunately, it appears that partisan politics caused delays in enacting the vital reforms contained in this bill.

The Pension Equity Act begins the process of providing women economic equality to men. Currently, pension law grossly discriminates against both working and nonworking women. This is unfair and unjust.

The Pension Equity Act incorporates many important reforms including:

Lowering the minimum age to receive vasting privileges under a pension plan from 25 to 21. Many women begin working right out of high school. This provision will allow them to receive a pension upon retirement if they quit after the age of 21.

Requiring a written waiver by a spouse if the beneficiary of a pension is changed. Under current law, a working husband can change the beneficiary of his pension plan without telling his wife. The legislation before us corrects this gross inequity.

Allowing a court to award part of a working spouse's pension to a nonworking spouse as part of a divorce settlement. This would allow a divorcee to retain some economic security.

Mr. President, I am pleased that we are making progress toward offering women the economic equality they have earned and deserve. However, much more work still must be done. I hope before this session of Congress ends we also can take up S. 888, the Economic Opportunity Act. This legislation, if enacted, would go a long way toward establishing economic parity between men and women.

Mr. President, I urge all my colleagues to support the Pension Equity Act and to embrace the cause of economic equality.

Mr. DOLE. Mr. President, I think the Retirement Equity Act is a step in the right direction. We have worked it out on both sides of the aisle. There were a couple of committees involved. We believe that the bill that will be passed today will be accepted by the House, which will mean that it will not need to go to conference.

The PRESIDING OFFICER. The question is on agreeing to the committee substitute.

The committee substitute was agreed to.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

Mr. DOLE. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAKER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I thank the distinguished majority leader and the distinguished minority leader for helping us expedite passage of this measure.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ABDNOR). Without objection, it is so ordered.

BUDGET ACT WAIVER—AGRICULTURE APPROPRIATIONS, 1985

The PRESIDING OFFICER. Under the previous order, the hour of 4 p.m. having arrived, there will now be 1 hour of debate on the motion to waive section 303 of the Budget Act of 1974 with respect to the agriculture appropriations bill, to be equally divided between and controlled by the chairman

and ranking minority member of the Budget Committee or their designees.

Mr. BAKER. Mr. President, the chairman of the Budget Committee is not presently on the floor. The ranking minority member is here. I am prepared, if he is, to suggest the absence of a quorum, with the time to be charged equally to both sides, until somebody arrives who might want to speak.

The PRESIDING OFFICER. Is there objection?

Mr. CHILES. Mr. President, I am prepared to speak now, or I can wait until the distinguished chairman of the Budget Committee arrives, if that is the wish of the majority leader.

Mr. BAKER. I urge the Senator from Florida to go ahead. I am sure the Senator from New Mexico will be here in a moment.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. CHILES. Mr. President, we will be voting on cloture sometime around 5 o'clock on a motion to waive the Budget Act. I think it is important that we review some of the historical events that have brought us to this point.

The Budget Act was passed in 1974 when Congress finally determined we needed some kind of restraint on spending, some kind of restraint on the passage of new programs whose cost had not been determined in advance. We needed some way of restraining ourselves so that we would not build formulas into programs that would end up haunting us down the road.

We saw a number of programs initiated for good cause. But when we looked at the cost estimates prepared before we voted on those programs they matched them against what the programs finally did cost, we began to appreciate the need for a Budget Act.

Some years ago, we provided kidney dialysis for people who needed such treatment. It was a humane aim, and when we first passed that program, it was estimated to cost about $230 million. Today, that program is costing $2.6 billion. So a good program was passed, when the sponsor was able to say it was not going to cost too much money and would help people. Yet, today, if you have kidney disease and dialysis will help you, the Federal Government picks up the whole tab. If you need a liver transplant, you are out of luck. If you need a lung operation or have emphysema, you do not get help from the Government.

It was that kind of uneven priority setting and passing not 1, but 15 or 16 appropriation bills while never adding up what they were going to cost at the end of the year, that made us decide we needed a budget act.

Under that act, we were supposed to determine at the beginning of the year, before we spent one dime, how much money the Federal Government would take in, what we needed to take care of the needs of Government, and where we would spend the money. For the first time, we began to consider the priorities of spending. Then, not the Budget Committee but both bodies, the House and the Senate, passed a First Concurrent Resolution, which set the framework for spending during the year.

The Budget Act clearly points out that appropriations bills will not be passed until we have that spending resolution. Yet, we find ourselves this year, on August 6, with no budget resolution. The bill is residing in a conference committee that was appointed months ago. There have been only four meetings, four times during the last 2 months, and only one of those meetings lasted as long as an hour. The other three were much shorter than that.

Mr. President, we have already passed a number of appropriations bills, and work was to begin this week, before the recess, on three or four additional appropriation bills.

Yet we have no binding guideline on spending. There is no binding number, so the House, theoretically, could spend what it wants on its favorite programs, and the Senate could spend what it wants on its favorite programs.

Now we are told that there is a rump agreement, between the majority party of this House, the Republicans, and the President, that they will not spend over a certain amount. Well, that may be a good faith agreement between them, but that is not an agreement in the law. The Budget Act is the law. What happens next year if we disregard the Budget Act?

The Senator from Florida is concerned that we may fail to follow the law and abandon the one discipline we have. That would be tragic. It would be tragic for the Senate, it would be tragic for the House of Representatives, it would be tragic for the country.

Mr. President, while the conference is holding the bill and while there are no meetings, the President is calling for a constitutional amendment to balance the budget. He says this is the way to get us out of this dilemma.

I find it a little ironic, Mr. President, knowing that it will take us years to pass a constitutional amendment, have the requisite number of States ratify it, another have it take effect. This country will long be bankrupt before that happens. Yet at the same time, we have the President balking, and an unwillingness to compromise in the conference committee so that we can have a budget report. What is the problem?

The main difference, Mr. President, simply is $13 billion, the difference between $299 billion and $287 billion in the item of defense. That is the principal difference. The House of Representatives has offered to split that difference, but the Republican-controlled Senate says, "We will take the high side of our defense number and you can take the low side of your defense number, and let that be the range."

Mr. President, if we do that on all the items in the conference, we have no conference at all. We have no meeting of the minds at all. We have no spending restraint at all, because it simply means either body can spend exactly as much as it wants to spend.

I am concerned that, if we go through this entire year without facing the music, we would be turning away from the process, and abandoning the Budget Act. I hope the Senate today in this vote will decide it does not wish to turn away from that process, it wishes to honor its obligations, it has respect for the law.

The spread between what the White House wants for military spending and what the House of Representatives has offered is now $7 billion out of nearly $300 billion. And that, Mr. President, is no spread at all. The difference between what the House of Representatives wants and what the chairman of the committee, Senator DOMENICI, said was a good number is only $2 billion.

Senator STEVENS has already said that he thinks we are going to end up not at the $299 billion or 7-percent growth figure, but closer to 5 percent or less.

Knowing that, Mr. President, it seems to me that it would be very wise if we voted down this motion for cloture today. I hope the majority leader of the Senate would instruct the chairman and myself, as the ranking minority member, to go to the budget conference, come up with a fair compromise with the House of Representatives, get us a binding first concurrent budget resolution. Then we would have the restraint the law calls for, and which many people across this Nation are calling for. It would give us the means to try and get our financial house in order.

The PRESIDING OFFICER. Who yields time?

If neither side yields time, the time will run equally against both sides.

Mr. CHILES. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. CHILES. If the Senator from Florida as the minority member has 30 minutes and the other side has 30 minutes and I have used a portion of my time, I am hard pressed to understand why time is to run equally against the Senator from Florida when the other side has not used any time. So I certainly object to time of the quorum being divided equally.

Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged to the other side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. MITCHELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I yield 5 minutes to the distinguished Senator from Washington, Senator GORTON.

The PRESIDING OFFICER. The Senator from Washington.

Mr. GORTON. I thank my friend, the distinguished Senator from Florida.

Mr. President, I appear today in a position which I do not believe I have found myself in almost 4 years as a Member of this body. I am here today to say that I think that the Senator from Florida is entirely correct in the feeling that it is inappropriate for this body not seriously to seek the passage of a budget resolution before rather than after it takes up major authorization and appropriations bills.

I say that in spite of the fact that my own sense of order indicates to me that we should pass as many appropriations bills as possible before the 1st of October, with the goal that there be no continuing resolution whatsoever or, at the minimum, that it include as few subject matters of appropriations as possible. Nevertheless, I think that that very sense of order which calls for the passage of individual appropriations bills also calls for the passage of those bills to be preceded by the passage of a final first budget resolution.

I find unappealing the proposition that we should simply conform a budget resolution to the passage of appropriations bills after they are in fact completed. I note my friend and colleague, the Senator from Alaska, is on the floor. I noted, when I was home over the weekend, a story in the Seattle Times quoting him as saying that the eventual appropriations for the Department of Defense would represent a compromise between the present positions of the House and the Senate and would represent approximately a 5-percent increase in the real appropriation for defense. I believe that my friend, the Senator from Alaska, was correct in that observation, but I believe very firmly that it is the duty of this body and of the House of Representatives to set the parameters for that debate on the defense budget in a budget resolution.

As a consequence, it seems to me, in order to get the attention of both the House and the Senate and of the administration for the proposition that the conference on the budget should meet, should negotiate seriously, should take its responsibilities to settle all unsettled questions with relation to the 1985 budget in mind and should come up with a resolution which is realistic, both with respect to domestic spending programs and with respect to the budget resolution, that in order to do that—in order to bring attention to the necessity for that occurrence—the Senator from Florida is, I regret to say, correct in holding up this budget waiver at this time. I announce my intention to vote against cloture in order that he may continue to bring the attention of this body to that most important and most vital of subjects before the Senate at the present time.

Just how long it is appropriate for such a discussion to continue I cannot say at the present time. But it is certainly appropriate that he should have brought it before us last Wednesday. It is appropriate and proper that he get an answer to his question to the leadership as to its intentions with respect to the budget resolution. And it is, I may say, proper and appropriate that he get an affirmative answer to those questions, an answer which indicates that it is the intention of the leadership seriously to pursue the budget resolution for the purposes for which it was originally designed; that is to say, to set an outline of both spending and of revenue programs for 1985 and for succeeding years.

The PRESIDING OFFICER. The time of the Senator from Washington has expired.

Mr. CHILES. I yield the distinguished Senator a few more minutes to engage in a colloquy.

I thank the Senator from Washington for his statement. I thank him for standing on the floor today and speaking against the cloture motion. He has certainly been a very valuable member of the Budget Committee, and has always shown that he feels the importance of that process is something that we should try to protect. I know the Senator understands. I have no desire to hold up any appropriation bills. I am on the Appropriations Committee. I blanche at the time the years went by without passing the appropriation bills on time. But the Budget Committee gave us the responsibility of trying to set the pattern for those appropriation bills. That is important. Maybe it would run this year with the agreement between the White House and the majority. It might run fine. But what that will do in future years is something that certainly frightens and concerns the Senator from Florida. I am delighted that it also concerns the Senator from Washington.

Mr. GORTON. The Senator from Florida has made a very good point which I missed in my opening position; that is, that the Senator from Florida is not attacking this specific agriculture appropriation bill. I believe I was presiding over the Senate when the Senator from Florida indicated his approval of the bill.

Mr. CHILES. That is correct.

Mr. GORTON. I approve of this bill. I think it is a responsible and appropriate appropriation for the Department of Agriculture. But it occurred to the Senator from Florida that it is even more appropriate as a method to discuss this important question, important both procedurally and substantively.

Mr. CHILES. I thank the Senator from Washington.

Mr. President, Parliamentary inquiry. How much time does the Senator from Florida have remaining?

The PRESIDING OFFICER. The Senator has 9 minutes remaining.

Mr. CHILES. I ask unanimous consent that the call for the quorum be charged against the majority side.

The PRESIDING OFFICER. Is there objection? If not, it is so ordered.

Mr. CHILES. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I ask unanimous consent that a letter from former Congressmen Bob Giaimo and John Rhodes on behalf of the Committe for a Responsible Federal Budget be inserted in the RECORD, before the vote. They state that "Congress should adopt a budget before it begins consideration of individual spending bills." That is the key point I have been trying to make during this debate. It is not partisan, as this joint letter indicates.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

COMMITTEE FOR A RESPONSIBLE FEDERAL BUDGET,
Washington, DC, August 3, 1984.

Hon. PETE V. DOMENICI, *Chairman,*
Hon. LAWTON CHILES, *Ranking Member,*
Committee on the Budget, U.S. Senate,
Washington, DC.

DEAR PETE AND LAWTON: Section 303 of the Budget Act is intended to ensure that spending and revenue legislation does not exceed the amounts contained in the budget resolution. Congress should adopt a budget before it begins consideration of individual spending bills.

If you waive § 303 of the Budget Act so the Senate can pass appropriations bills before you adopt a conference agreement on the budget resolution, you may well reduce

substantially the pressure to reach agreement on the resolution. In our judgment that would be a mistake.

We understand the difficulty you face. Conferences on budget resolutions are always contentious. But if the defense issue is intractable right now, perhaps you should resort to a "reserve clause" approach to solving that problem—much as you solved the problem of the countercyclical funds favored by the House last year. Budget conferees have faced many very difficult problems in the past, and the reserve clause is only one example of ways in which they have resolved those problems. And the problems this year must be solved. It is imperative that Congress adopt a budget.

If there is anything we can do that would be helpful toward that objective, please let us know.

Best regards,

ROBERT N. GIAIMO.

Mr. CHILES. Mr. President, how much time does the Senator from Florida have left?

The PRESIDING OFFICER. The Senator from Florida has 6 minutes remaining.

Mr. CHILES. I thank the Chair.

Mr. President, the time on this question has been equally divided, 1 hour of debate on both sides. The Senator from Florida has been speaking on the motion to waive. A distinguished member of the Budget Committee, the Senator from Washington, also came to the floor and spoke eloquently against the motion to waive. It seems to me our position is unassailable. In fact, no one has even showed up to try to argue the other side. It seems to me, Mr. President, it is pretty clear that if there is not even a meritorious argument that can be made as to why we should be invoking cloture, then the Senate should not do that at this time. I happen to agree with that proposition.

I can well understand why nobody decided to come to the floor from the other side. I was hoping to be able to engage someone in a discussion over the cloture issue. I was hoping to read some of the statements which were made when we passed this Budget Act, such as when the distinguished Senator from Texas [Mr. TOWER], the chairman of the Armed Services Committee, expressed his support for the conference report on the budget reform bill. He said that this legislation establishes some rational mechanisms for performing our constitutional duty with respect to the appropriating process. By enacting a definite time frame to consider overall spending limitations, the Congress will be achieving the first step on the road back to respectability.

Mr. MOYNIHAN. Will the distinguished Senator yield for a question?

Mr. CHILES. I shall be happy to yield to my good friend from New York, a member of the Budget Committee.

Mr. MOYNIHAN. Mr. President, I spoke to the matter the Senator is addressing for an hour on Thursday afternoon and did not see a single Member of—I must say I referred to it as the silent and absent majority. Has the Senator from Florida had any response to his efforts to discuss and debate this matter since it began?

Mr. CHILES. Mr. President, there have been some statements made by people who support the cloture motion. I say to my good friend from New York that a statement was made today by the Senator from Washington, who happens to be of the other party but he supports the proposition of the Senator from New York and the Senator from Florida; so I do not think this is a partisan proposition. What we are talking about now is between those people who feel that the Budget Act has merit, that it should survive and should not be allowed to be destroyed, and those people who think expediency would be a better policy and that we do not have to follow the Budget Act.

I thank the Senator from New York.

The point I was trying to make when I started this educational debate is that there are 64 Senators who were not here when we passed the Budget Act. I can understand that those 64 Senators might not appreciate some of the problems we had up until 1974, when we passed that Budget Act. I felt it was necessary that we try to explain that to them.

I happen to know that some Senators are concerned because this is the agriculture bill. I repeat, I support this bill. I am not trying to hold up this bill. I think it is a good bill. I think people have worked hard on it.

But I am saying I know it will be difficult to explain back home to my farmers why I voted against cloture the first time on the agriculture appropriations bill. That is why we do not get anything done around here, because everybody has to worry about how they explain something 1 day at a time. I am just calling on the Members of this body to really search their consciences and determine, this being the only law that we have to restrain spending, this being the only act that is on the books, that we should not throw it into the waste can. Should we discard it. Or should we simply say to those powers that are in control, just tell us to go to that Budget Committee and complete the work; just tell us to go to that conference committee.

Mr. MOYNIHAN. Mr. President, will the Senator yield for one more question?

Mr. CHILES. I should be happy to yield.

Mr. MOYNIHAN. He said Members should vote their consciences. But are we not voting here to abide by the law?

Mr. CHILES. I hope most Members' consciences would equate with the law.

Mr. MOYNIHAN. Extend to abiding by the law. We make the laws; surely, we ought abide by them.

Mr. CHILES. Mr. President, I think the Senator from New York is right. I think this is a very important point because if, for expediency, we waive the Budget Act on all of these appropriations bills now, we are making a mistake. Now we are doing it because parties cannot agree on roughly a $7 billion figure. The House has offered $292 billion; the Senate majority is sticking at $299 billion. That is the whole thing we are waiting on.

The distinguished chairman from New Mexico said $294 billion would be a fair figure, 5 percent. So that would even make the dispute over $2 billion. That is the range.

For that range, we are going to risk destroying this process. The next President who comes along may not have a hangup on defense; it may be some major domestic spending program. We could be setting a precedent in which people might say well, after all, they did not agree back there in 1984, they did not have a budget resolution and they went along without one; why do we need one now?

It seems to me I have heard this President say time after time, "I want a constitutional amendment so we can balance the budget." How long is it going to take us to get that consitutional amendment ratified through the States? Yet here we have the proposition that will allow us to at least see that we do not enact new programs, to at least see that we come up with some resolution as to what spending should be, that we at least place some control on what overall spending is going to be. That is the opportunity in this vote.

I hope that cloture will not be voted. I hope that the majority leader would then say to the distinguished chairman of the Budget Committee and to me, "Go to that conference committee and stay there until you work out a fair figure, and then bring it back."

(Mr. BAKER addressed the Chair.)

Mr. CHILES. Mr. President, I think if we had that, we would have a budget resolution. We would have a pattern into which we could fit these bills, and I think we would be much further long in the process than we are now.

Has the Senator's time expired?

The PRESIDING OFFICER (Mr. DENTON). All time has expired. The time of 5 o'clock having arrived, the Chair recognizes the majority leader.

Mr. BAKER. Mr. President, the time has expired. We ought to vote.

CLOTURE MOTION

The PRESIDING OFFICER. The hour of 5 p.m. having arrived, under

the previous order the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of Rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Baker motion to waive section 303(a) of the Budget Act for consideration of H.R. 5743, an act making appropriations for Agriculture, Rural Development, and Related Agencies programs for the fiscal year ending September 30, 1985, and for other purposes, as reported.

Senators Howard Baker, Ted Stevens, John Heinz, Chic Hecht, Strom Thurmond, Charles Mac Mathias, Mark Hatfield, Mack Mattingly, Bob Kasten, James Abdnor, Alfonse D'Amato, Pete Domenici, Jesse Helms, Paul Laxalt, Bob Dole, Thad Cochran, and Arlen Specter.

VOTE

The PRESIDING OFFICER. By unanimous consent, the quorum call has been waived. The question is, Is it the sense of the Senate that debate on the motion to waive section 303(a) of the Budget Act for consideration of H.R. 5743, an act making appropriations for agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1985, shall be brought to a close. The yeas and nays are required and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DECONCINI. Mr. President, on this vote I have a pair with the Senator from New Jersey [Mr. BRADLEY]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. BURDICK. Mr. President, on this vote I have a pair with the Senator from California [Mr. CRANSTON]. If he were present and voting, he would vote "nay." If I were at liberty to vote, I would vote "yea." Therefore, I withhold my vote.

Mr. STEVENS. I announce that the Senator from Maine [Mr. COHEN], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Iowa [Mr. GRASSLEY], the Senator from Florida [Mrs. HAWKINS], the Senator from Idaho [Mr. MCCLURE], and the Senator from Illinois [Mr. PERCY] are necessarily absent.

Mr. BYRD. I announce that the Senator from Montana [Mr. BAUCUS], the Senator from Texas [Mr. BENTSEN], the Senator from Oklahoma [Mr. BOREN], the Senator from New Jersey [Mr. BRADLEY], the Senator from California [Mr. CRANSTON], the Senator from Vermont [Mr. LEAHY], and the Senator from Massachusetts [Mr. TSONGAS] are necessarily absent.

I further announce that, if present and voting, the Senator from Montana [Mr. BAUCUS] would vote "nay."

On this vote, the Senator from Oklahoma [Mr. BOREN] is paired with the Senator from Massachusetts [Mr. TSONGAS].

If present and voting, the Senator from Oklahoma would vote "yea" and the Senator from Massachusetts would vote "nay."

The PRESIDING OFFICER. Are there any other Senators in the Chamber who wish to vote?

The yeas and nays resulted—yeas 54, nays 31, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—54

Abdnor	Hatfield	Pryor
Andrews	Hecht	Quayle
Armstrong	Heflin	Randolph
Baker	Heinz	Roth
Boschwitz	Helms	Rudman
Chafee	Huddleston	Simpson
Cochran	Jepsen	Specter
D'Amato	Kassebaum	Stafford
Danforth	Kasten	Stevens
Denton	Laxalt	Symms
Dole	Lugar	Thurmond
Domenici	Mathias	Tower
East	Mattingly	Trible
Exon	Murkowski	Wallop
Ford	Nickles	Warner
Garn	Packwood	Weicker
Goldwater	Pell	Wilson
Hatch	Pressler	Zorinsky

NAYS—31

Biden	Hart	Metzenbaum
Bingaman	Hollings	Mitchell
Bumpers	Humphrey	Moynihan
Byrd	Inouye	Nunn
Chiles	Johnston	Proxmire
Dixon	Kennedy	Riegle
Dodd	Lautenberg	Sarbanes
Eagleton	Levin	Sasser
Evans	Long	Stennis
Glenn	Matsunaga	
Gorton	Melcher	

PRESENT AND GIVING A LIVE PAIR, AS PREVIOUSLY RECORDED—2

DeConcini, for.
Burdick, for.

NOT VOTING—13

Baucus	Cranston	McClure
Bentsen	Durenberger	Percy
Boren	Grassley	Tsongas
Bradley	Hawkins	
Cohen	Leahy	

The PRESIDING OFFICER. On this vote the yeas are 54, the nays are 31. Three-fifths of the Senators duly chosen and sworn having not voted in the affirmative, the motion is not agreed to.

Mr. BAKER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. Mr. President, I understand the majority leader wanted to make a statement before everybody left and I think Senators would want to hear that.

Mr. BAKER. I thank the Senator. If the Senator will yield for a moment.

The PRESIDING OFFICER. The Senate is not in order. The Chair recognizes the majority leader.

Mr. BAKER. I thank the Chair.

Mr. President, we did not get cloture by six votes, I guess. We had a number of absentees on both sides. I remain hopeful that, at some point, we can get cloture. In any event, there will not be any more rollcall votes today.

May I say that I am now having conversations with the minority leader on whether or not we can get the supplemental appropriations bill tomorrow. Senators should know that there will be another cloture attempt on this motion. I have a motion prepared. I am not prepared to file it yet. I want to see how we arrange the sequence and schedule for the balance of this week. I will have a further announcement to make a little later about whether we will be on this motion or whether we will be on the supplemental appropriations bill in the morning.

But, in any event, there will not be any more rollcall votes today.

Mr. FORD. Will the distinguished majority leader yield for a question?

Mr. BAKER. I do not have the floor, but I will be happy to yield if the Senator from Florida would permit.

Mr. CHILES. I am happy to yield to the Senator from Kentucky.

Mr. FORD. Mr. President, tomorrow is the funeral of the late Congressman CARL PERKINS, the distinguished chairman of the House Education and Labor Committee. Several of our colleagues in the Senate will be attending that funeral. I would be grateful to the majority leader if he could delay some votes so that those of us who attend that funeral will not miss the votes, because I think it is almost mandatory that I be there.

Mr. BAKER. Mr. President, I thank the Senator. I will not prolong this but to say that I am among those, including the Senator who just spoke, in my profound admiration for our colleague in the House, Chairman PERKINS. He has been a friend for many years. He was a friend of my father's. The Congress suffered a great loss when he died. I fully understand the requirements of the Senator from Kentucky and I assure him every effort will be made to see that he is not discommoded by attending the funeral.

Mr. FORD. I thank the majority leader and I thank the distinguished Senator from Florida.

Mr. CHILES. Mr. President, the Senate has defeated the vote for cloture. Once again I ask for a compromise. We had a 49-49 tie vote here in an attempt to determine a reasonable defense number. We now have a vote against cloture. I think it would be very easy to put this behind us if we would simply have the conferees on the Budget Committee instructed to go to the House and sit down there

and stay until they work out a conference.

The Finance Committee worked long and hard overnight, more than one night, for hour after hour. The budget conferees have had just four meetings in over 2 months. Three of those meetings lasted well under an hour; only one lasted shortly over an hour. We are hung up on one particular number. The difference right now is $7 billion out of $300 billion. That is what we are arguing about. So, for that number, we are jeopardizing the whole budget process. We have not passed any kind of budget ceiling.

Mr. President, to underscore the issue the CBO came out with its updated report today. It shows that the economy is growing faster than we thought. But that report scares me to death because it shows we are going from deficits of $172 billion in 1984 to $263 billion in 1989.

Those numbers take into account the downpayment. So we are not talking about before the downpayment. We are talking about after the downpayment. In fact, it shows that the interest rates will double from $110 billion to $220 billion by 1989. In fact, the additional interest we will pay between now and 1989 takes all the money out of the downpayment. All of that is eaten up with interest.

Mr. President, I know you have seen these little machines where Pac Man eats up everything. Interest is eating everything in this country today. It is eating the program for education. It is eating the program for defense. When interest gets to be $210 billion it is almost as big as defense. It is already bigger than all the health care programs we have today.

The CBO figures, it is interesting to note, provide the full employment figure. That means 6 percent. We call that full employment when we get to 6-percent unemployment. And when you look at their numbers for full employment, you are beginning to pinpoint the structural deficit. It assumes you have got yourself to full employment, but even then you would still have a $112 billion deficit in 1984, and in 1989 you would have $246 billion—a quarter of a trillion dollars.

See if you can get your mind around that. I do not think you can. CBO also says the national debt will double over the next 5 years. It will go from $1½ trillion to $3 trillion in 5 years. What those figures show is that even with "full employment" you cannot grow your way out of trouble. So like the proprietor in the store pays, you cannot make it up with the volume. The faster you go, the more you are going in the hole.

The only way you are going to make it up is do something serious in an attempt to cut spending, and do something serious on the revenue side. Goodness knows, this is not the time to abandon the only toll we have—the Budget Act. It is the only tool we have to help us get pointed in the proper direction.

I thank the Senators for their vote today. I hope we can continue, if necessary, to educate the Members of the Senate—those 64 Members—that were not here when the Budget Act passed. As I say, all of this could be alleviated very, very quickly. It could be alleviated if we were to be instructed to go to conference and to stay there until we reach agreement. As the Senator from Louisiana said in the Finance Committee, people went into that Finance Committee meeting and, said, "I will never vote for new revenue." After 12 hours they said, "I do not want to vote for new revenue." After 24 hours they said, "I had to vote for new revenue to get out of here."

That could be done on this. We could go in there saying I will never vote for lower defense, or the House saying I will never vote for a higher defense. But if you put us in that room and tell us to stay until we do it, we would do it, and we abide the Budget Act. This country would be better for it.

CLOTURE MOTION

Mr. BAKER addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BAKER. Mr. President, I send a cloture motion to the desk, and ask it be stated by the clerk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, hereby move to bring to a close debate on the Baker motion to waive section 303(a) of the Budget Act for consideration of H.R. 5743, an act making appropriations for Agriculture, rural development, and related agencies programs for the fiscal year ending September 30, 1985, and for other purposes, as reported.

Senators Howard Baker, Ted Stevens, Alphonse D'Amato, Mark Andrews, Mack Mattingly, Frank H. Murkowski, Charles Mac Mathias, Strom Thurmond, Thad Cochran, Bob Dole, Mark Hatfield, Bob Kasten, Paul Trible, Bob Packwood, Rudy Boschwitz, and John H. Chafee.

ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, if I could have the attention of the minority leader, who is on the floor for just a moment, I think we have completed all that we can profitably do on this measure tonight, and I am prepared to put us into a period for the transaction of routine morning business.

Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business until not later than 6:15 p.m. in which Senators may speak for not more than 3 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

MESSAGE FROM THE HOUSE

At 4:41 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1224. An act to provide for the disposition of certain undistributed judgment funds awarded the Creek Nation.

The message also announced that the House has passed the following bill, with amendments, in which it requests the concurrence of the Senate:

S. 905. An act to establish the National Archives and Records Administration as an independent agency.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 1904) to extend and improve the provisions of the Child Abuse Prevention and Treatment Act and the Child Abuse Prevention, and Treatment and Adoption Reform Act of 1978; agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon, and appoints Mr. PERKINS, Mr. GAYDOS, Mr. BIAGGI, Mr. SIMON, Mr. MILLER of California, Mr. MURPHY, Mr. CORRADA, Mr. WILLIAMS of Montana, Mr. ECKART, Mr. ERLENBORN, Mr. GOODLING, Mr. COLEMAN of Missouri, Mr. BARTLETT, and Mr. MCCAIN as managers of the conference on the part of the House.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 5151. An act to alleviate hunger in the United States by strengthening Federal nutrition programs;

H.R. 5399. An act to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes;

H.R. 5851. An Act to amend the Wild and Scenic Rivers Act to designate a segment of the Cache la Poudre River in Colorado for potential addition to the National Wild and Scenic Rivers System;

H.R. 5973. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes; and

H.J. Res. 453. Joint resolution designating the week of September 30, through October 6, 1984, as "National High-Tech Week".

The message further announced that the House has agreed to the following resolution:

H. Res. 566. A resolution relative to the death of the Honorable Carl D. Perkins, a Representative from the State of Kentucky.

ENROLLED BILLS AND JOINT RESOLUTION SIGNED

The message also announced that the Speaker has signed the following enrolled bills and joint resolution:

S. 268. An act to authorize the Secretary of the Interior to construct, operate, and maintain certain facilities at Hoover Dam, and for other purposes;

H.R. 4952. An act to authorize the Secretary of Defense to provide assistance to certain Indian tribes for expenses incurred for community impact planning activities relating to the planned deployment of the MX missile system in Nevada and Utah in the same manner that State and local governments were provided assistance for such expenses; and

S.J. Res. 272. Joint resolution recognizing the anniversaries of the Warsaw uprising and the Polish resistance to invasion of Poland during World War II.

The enrolled bills and joint resolution were subsequently signed by the President pro tempore (Mr. THURMOND).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 5851. An act to amend the Wild and Scenic Rivers Act to designate a segment of the Cache la Poudre River in Colorado for potential addition to the Nation Wild and Scenic Rivers System; to the Committee on Energy and Natural Resources.

H.R. 5973. An act making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes; to the Committee on Appropriations.

MEASURE PLACED ON THE CALENDAR

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5399. An act to authorize appropriations for fiscal year 1985 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes.

MEASURES HELD AT THE DESK

Pursuant to the order of the Senate of August 1, 1984, the following joint resolution was held at the desk by unanimous consent:

H.J. Res. 453. Joint resolution designating the week of September 30 through October 6, 1984, as "National HighTech Week".

MEASURE READ THE FIRST TIME

The following bill was read the first time:

H.R. 5151. An act to alleviate hunger in the United States by strengthening Federal nutrition programs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. DOLE, from the Committee on Finance:

Report to accompany the bill (H.R. 4280) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1954 to improve the delivery of retirement benefits and provide for greater equity under private pension plans for workers and their spouses and dependents by taking into account changes in work patterns, the status of marriage as an economic partnership, and the substantial contribution to that partnership of spouses and dependents by taking who work both in and outside the home, and for other purposes (Rept. No. 98-575).

By Mr. DANFORTH, from the Committee on Governmental Affairs, with amendments:

S. 2433. A bill to amend chapter 35 of title 44, United States Code, relating to the coordination of Federal information policy, and for other purposes (Rept. No. 98-576).

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 2160. A bill to establish a National Fisheries Marketing Council to enable the U.S. fish industry to establish a coordinated program of research, education, and promotion to expand markets for fisheries products, and for other purposes (Rept. No. 98-577).

By Mr. HATFIELD (for Mr. MCCLURE), from the Committee on Appropriations, with amendments:

H.R. 5973. A bill making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1985, and for other purposes (Rept. No. 98-578).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment:

S. 2846. An original bill to authorize appropriations to the Nuclear Regulatory Commission in accordance with section 261 of the Atomic Energy Act of 1954, and section 305 of the Energy Reorganization Act of 1974 (Rept. No. 98-579).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with amendments:

H.R. 9. A bill to designate components of the National Wilderness Preservation System in the State of Florida (Rept. No. 98-580).

By Mr. BAKER (for Mr. MCCLURE), from the Committee on Energy and Natural Resources, with an amendment in the nature of a substitute:

S. 2155. A bill to designate certain national forest system lands in the State of Utah for inclusion in the National Wilderness Preservation System to release other forest lands for multiple use management, and for other purposes (Rept. No. 98-581).

By Mr. DANFORTH, from the Committee on Governmental Affairs, without amendment:

S. Res. 426. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2433.

By Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, without amendment:

S. Res. 427. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2160.

REPORTS OF COMMITTEES SUBMITTED DURING THE ADJOURNMENT

Under the authority of the order of the Senate of August 3, 1984, the following reports of committees were submitted on August 3, 1984, during the adjournment of the Senate:

By Mr. DOMENICI, from the Committee on the Budget, without recommendation and without amendment:

S. Res. 420. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1668 (Rept. No. 98-571).

S. Res. 421. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 806 (Rept. No. 98-572).

By Mr. McCLURE, from the Committee on Energy and Natural Resources, without amendment:

S. 648. A bill to facilitate the exchange of certain lands in South Carolina (Rept. No. 98-573).

S. 2732. A bill to amend the Wild and Scenic Rivers Act to permit the control of the lamprey eel in the Pere Marquette River and to designate a portion of the Au Sable River, Michigan, as a component of the National Wild and Scenic Rivers System (Rept. No. 98-574).

By Mr. DOMENICI, from the Committee on the Budget, without amendment:

S. Res. 422. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 3787.

S. Res. 423. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of H.R. 4596.

EXECUTIVE REPORTS OF COMMITTEES SUBMITTED DURING THE ADJOURNMENT

Under the authority of the order of the Senate on August 3, 1984, the following executive reports of committees were submitted on August 3, 1984, during the adjournment of the Senate:

By Mr. PERCY, from the Committee on Foreign Relations:

Jorge L. Mas, of Florida, to be a member of the Advisory Board for Radio Broadcasting to Cuba for a term of 2 years (Exec. Rept. No. 98-41).

Howard Bruner Schaffer, of New York, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the People's Republic of Bangladesh (Exec. Rept. No. 98-42):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Howard B. Schaffer.

Post: Dhaka, Bangladesh.

Contributions, amount, date, and donee:

1. Self: Howard B. Schaffer, none.

2. Spouse: Teresita C. Schaffer, none.

3. Children and spouses names: Michael C. Schaffer, none, Christopher S. Schaffer, none.

4. Parents names: I. M. Schaffer, none, Minnie R. Schaffer, none.

5. Grandparents names: None.

6. Brothers and spouses names: None.
7. Sisters and spouses names: Doris S. O'Brien, none, Everett J. O'Brien, none.

Paul Fisher Gardner, of Texas, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to Papau New Guinea, and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States to the Solomon Island (Exec. Rept. No. 98-43):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul F. Gardner.

Post: Ambassador to Papua New Guinea and Solomon Island.

Contributions, amount, date, donee:

1. Self: None.
2. Spouse: None.
3. Children and spouses names: Amada Jane Gardner, none.
4. Parents names: Maurine Gardner, none.
5. Grandparents names: Deceased, none.
6. Brothers and spouses names: Pat H. Gardner: $100, February 25, 1980, Republican National Committee [RNC]; $200, April 24, 1980, Texans for Judge Will Garwood; $150, May 9, 1980, RNC; $100, August 1, 1980, Loeffler Campaign 80 Committee; $100, August 1, 1980, RNC; $200, December 17, 1980, RNC 1981 Campaign Membership Fund; $500, December 3, 1981, Loeffler Campaign 82; $200, December 22, 1981, RNC/1982 Campaign Membership Fund; $50, April 2, 1982, Lloyd Bentsen Election Committee; $250, April 2, 1982, RNC; 50, March 4, 1983, Bob Kirkpatrick Campaign; $250, August 17, 1983, Judge Franklin S. Spears Campaign; $500, October 17, 1983, Krueger of Texas Primary Campaign; $100, January 23, 1984, RNC; $50, February 13, 1984, GOP Victory Fund; $50, March 16, 1984, William J. Thornton, Trustee; $200, March 27, 1984, Kruger of Texas Primary Campaign. Carole B. Gardner, none.
7. Sisters and spouses names: None.

Robert J. Ryan Jr., of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Mali (Exec. Rept. No. 98-44):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert J. Ryan, Jr.

Post: Ambassador to Mali.

Contributions, amount, date, and donee:

1. Self: none.
2. Spouse: Clare P. Ryan, none.
3. Children and spouses names: Sean Ryan, none, Susan Ryan, none.
4. Parents names: Robert J. Ryan: $50, January 23, 1980, Democratic National Campaign Committee; $100, March 4, 1980, George Bush for President Campaign; $50, July 13, 1980, George Bush for President Campaign; $50, October 20, 1980, Democratic Party; $20, October 20, 1980, Tom Brown State Representative Campaign; $25, October 21, 1980, Bronson School Board Campaign; $25, March 27, 1982, Democratic Congressional Campaign Committee; $25, March 27, 1982, Republican National Committee; $15, August 1, 1982, Republican National Committee; $10, August 1, 1982, Democratic Congressional Campaign; $15, September 12, 1982, Republican National Committee; $25, August 11, 1982, Massicler for County Council; $25, September 20, 1982, Massicler for County Council; $25, December 27, 1982, Republican National Committee; $25, April 4, 1983, Republican National Committee; $25, April 4, 1983, $25, April 4, 1983, Democratic Congressional Committee; $20, September 26, 1983, Democratic National Committee; $20, September 26, 1983, John Glenn Presidential Campaign; $20, October 26, 1983, John Glenn Presidential Campaign; $15, November 25, 1983, Democratic National Committee; $20, January 24, 1984, Fund for Democratic Majority; $15, January 28, 1984, Democratic Congressional Committee; $25, January 28, 1984, Republican National Committee. Mary O. Ryan, none.
5. Grandparents names: deceased.
6. Brothers and spouses names: Thomas W. Ryan, none, Vicki Ryan, none.
7. Sisters and spouses names: none.

Paul H. Boeker, of Ohio, a career member of the Senior Foreign Service, class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Hashemite Kingdom of Jordan (Exec. Rept. No. 98-45):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Paul H. Boeker.

Post: Ambassador to Jordan.

Contributions, amount, date, and donee:

1. Self: Paul H. Boeker: None.
2. Spouse: Margaret C. Boeker, $35, February 21, 1984, Charles Pency.
3. Children and spouses names: Michelle, Kent and Katherine Boeker, none.
4. Parents names: Victor W. Boeker, none.
5. Grandparents names: None.
6. Brothers and spouses names: Mr. and Mrs. Ralph W. Boeker, $100 annually, Republican National Committee, Mr. and Mrs. Bruce E. Boeker, none.
7. Sisters and spouses names: None.

Richard Wood Boehm, of the District of Columbia, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the Republic of Cyprus (Exec. Rept. No. 98-46):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Richard W. Boehm.

Post: Ambassador to Cyprus.

Contributions, amount, date, and donee:

1. Self: None
2. Spouse: Deceased, none.
3. Children and spouses names: Son, Stephen Boehm and his spouse, Rosalba, none, daughters, Karen Boehm Fisher and her spouse, James Fisher, none.
4. Parents names: Mother Kathryn Boehm, none, Father (deceased), none.
5. Grandparents names: All deceased, none.
6. Brothers and spouses names: No brothers.
7. Sisters and spouses names: Sister Marion Wolf and her spouse, Robert Wolf, None, sister Betty Shave and her spouse, William Shave: Not available.

Maynard W. Glitman, of Vermont, a career member of the Senior Foreign Service, class of Minister-Counselor, for the rank of Ambassador during the tenure of his service as the Representative of the United States of America for Mutual and Balanced Force Reductions Negotiations (Exec. Rept. No. 98-47):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Maynard W. Glitman.

Post: Ambassador, Head of U.S. Delegation to Mutual and Balanced Force Reduction Negotiations.

Nominated: April 27, 1984.

Contributions, amount, date, and donee:

1. Self: Maynard W. Glitman, none.
2. Spouse: G. Christine Glitman, none.
3. Children and spouses names: Russell, Erik, Karen, Matthew, Rebecca, none.
4. Parents names: Ben Glitman, none.
5. Grandparents names: Mrs. Max Kutok, none.
6. Brothers and spouses names: Joseph S. Glitman, none, Geraldine Glitman, none.
7. Sisters and spouses names: Paula Glitman, none.

Alan Wood Lukens, of Pennsylvania, a career member of the Senior Foreign Service, class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States to the People's Republic of the Congo (Exec. Rept. No. 98-48):

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Alan W. Lukens.

Post: Brazzaville.

Contributions, amount, date, and donee:

1. Self: Alan W. Lukens, none.
2. Spouse: Susan Lukens, none.
3. Children and spouses names: Lewis, Susan, Frances and Timothy, none, no spouses.
4. Parents names: Deceased, 1948 & 1961.
5. Grandparents names: Deceased.
6. Brothers and spouses names: No brothers.

Sisters and spouses names: Mrs. James G. Hays (widow), $50, 1983, Senator Tsongas Massachusetts, $25, 1983, Democratic National Committee, Mr. & Mrs. Stuart Saunders, $25, 1982, Governor Dukakis Massachusetts, $25, 1982, Democratic Senate Committee.

(The above nominations were reported from the Committee on Foreign Relations with the recommendation that they be confirmed subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. ROTH, from the Committee on Governmental Affairs:

Bruce D. Beaudin of the District of Columbia, to be an associate judge of the Superior Court of the District of Columbia (Exec. Rept. 98-49).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE:

S. 2906. A bill to amend the Export-Import Bank Act of 1945 to halt the recent, rapid erosion of the Bank's capital base and thus to ensure that the Bank remains a credible institution for combating the subsidized financing of exports by foreign governments; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. GLENN:

S. 2907. A bill to suspend for a 3-year period the duty on certain metal umbrella frames; to the Committee on Finance.

By Mr. PRYOR:

S. 2908. A bill to correct a flaw in the UBTI provisions of the Internal Revenue Code; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. INOUYE, Mr. PELL, Mr. BRADLEY, and Mr. METZENBAUM):

S. 2909. A bill to increase the availability of educational television programming for children; to the Committee on Commerce, Science, and Transportation.

By Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. HELMS, Mr. COCHRAN, Mr. DENTON, Mr. TRIBLE, Mr. DANFORTH, Mr. MATHIAS, Mr. ROTH, Mr. PRYOR, Mr. BENTSEN, Mr. SASSER, Mr. D'AMATO, Mr. STENNIS, Mr. CHILES, Mr. BURDICK, Mr. LONG, Mr. NUNN, Mr. GLENN, Mr. MATTINGLY, Mr. HEFLIN, Mr. JOHNSTON, Mr. BIDEN, Mr. EAST, Mr. HUDDLESTON, Mr. LAXALT, Mr. HART, Mr. HEINZ, Mr. BAKER, Mr. DOLE, Mr. PRESSLER, Mr. RIEGLE, Mr. WILSON, Mr. SPECTER, and Mr. NICKLES):

S.J. Res. 340. Joint resolution to designate the week of September 23, 1984 as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. DANFORTH:

S. Res. 426. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2433; from the Committee on Governmental Affairs; to the Committee on the Budget.

By Mr. PACKWOOD:

S. Res. 427. An original resolution waiving section 402(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 2160; from the Committee on Commerce, Science, and Transportation; to the Committee on the Budget.

By Mr. BAKER (for Mr. HUDDLESTON (for himself and Mr. FORD)):

S. Res. 428. Resolution relative to the death of Representative CARL PERKINS, of Kentucky; considered and agreed to.

By Mr. MITCHELL (for himself and Mr. COHEN):

S. Con. Res. 132. Concurrent resolution congratulating Joan Benoit of Freeport, Maine for winning a gold medal in the XXIII Olympiad; placed on the calendar by unanimous consent.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE:

S. 2906. A bill to amend the Export-Import Bank Act of 1945 to halt the recent, rapid erosion of the Bank's capital base and thus to ensure that the Bank remains a credible institution for combating the subsidized financing of exports by foreign governments; to the Committee on Banking, Housing, and Urban Affairs.

(The remarks of Mr. PROXMIRE and the text of this legislation appear earlier in today's RECORD.)

By Mr. GLENN:

S. 2907. A bill to suspend for a 3-year period the duty on certain metal umbrella frames; to the Committee on Finance.

SUSPENSION OF DUTY ON CERTAIN METAL UMBRELLA FRAMES

● Mr. GLENN. Mr. President: I rise today to join my colleague from the House, Representative MARCY KAPTUR, by introducing a bill to suspend for a 3-year period the duty on imported rain umbrella frames. The current 15-percent duty hurts rather than helps domestic manufacturers because handheld umbrella frames are no longer produced in this country. In fact, with 95 percent of all umbrellas sold in the United States being manufactured overseas, this duty only adds further injury to what remains of an already hard-pressed domestic industry.

What does remain, Mr. President, are eight American rain-umbrella manfacturers who rely almost entirely upon frames from Taiwan. In 1983, Taiwan lost its GSP status because it accounted for more than 50 percent of the imports of umbrella frames and its trade exceeded $1.3 million. As a result, a 15-percent duty was imposed on frames imported from Taiwan. Although well-intended, this action will have unfortunate consequences for American companies.

If the duty on frames is not suspended, manufacturers will be forced to raise their prices which may well force them out of the business—and this country can ill afford to take that kind of risk. Mr. President, our domestic umbrella manufacturers clearly need our help and this help must come soon.

By suspending the duty on handheld rain umbrella frames for 3 years, many American jobs will be saved and the industry will be given a fighting chance to survive. Mr. President, this is a simple bill that will offer needed help to a struggling industry. I ask for its prompt consideration and urge my colleagues to join me in supporting this commonsense measure.●

By Mr. PRYOR:

S. 2908. A bill to correct a flaw in the UBTI provisions of the Internal Revenue Code; to the Committee on Finance.

CORRECTIONS TO UBTI PROVISIONS OF THE INTERNAL REVENUE CODE

Mr. PRYOR. Mr. President, today I am introducing a bill to correct a flaw in the unrelated business taxable income provisions of the Internal Revenue Code—also known as UBTI provisions—and thereby increase the ability of nonprofit organizations to raise badly needed money for their charitable work. I know many Members of the Senate are familiar with the issues addressed by my legislation, since we approved similar legislation on April 12 of this year during consideration of the Deficit Reduction Act. Along with some other meritorious provisions, however, the proposal we adopted was dropped in conference.

Mr. President, many charitable organizations raise money through contributions received through the mail. In order to continue fund-raising activities, these organizations must maintain up-to-date mailing lists. Otherwise, attrition would soon deplete contributions and thereby force an organization to curtail its programs. Therefore, organizations frequently exchange lists with other nonprofit organizations. Some national organizations, like the Disabled American Veterans, which has a larger list than most, also rent their mailing lists to others, thereby making it possible to maintain the donor group and continue to raise the funds required for charitable activities. Clearly, Mr. President, such rental or exchange of a mailing list is directly related to the charitable work of a nonprofit organization, and as such, should not be subject to the tax imposed on unrelated business taxable income.

The unrelated business taxable income provisions are in the Tax Code for a good reason, Mr. President. They are designed to tax an exempt organization like any other business entity if the exempt organization engages in an activity outside the scope of its charitable activities. I generally support these provisions because they act to prevent an exempt organization from gaining a competitive advantage over a private business when the two are engaged in head-to-head competition. However, the rental or exchange of a mailing list with another charity, Mr. President, seems to me to be clearly within the scope of an exempt organization's activities, and therefore, should not be subject to the unrelated business taxable income provisions. Unfortunately, the Internal Revenue Service and the Treasury Department have decided otherwise.

The bill I'm introducing today will provide exemptions from UBTI for two narrowly defined types of transactions. First, a congressionally chartered organization such as the DAV will not be subject to the tax on UBTI when it rents or exchanges its mailing list with another nonprofit organization contributions to which are deductible under section 170 of the Internal Revenue Code. Second, other exempt organizations contributions to

which are deductible under section 170 would not realize UBTI when they exchange mailing lists with similar organizations. Transactions not covered under one of these two exceptions would continue to be subject to the unrelated business taxable income provisions.

Mr. President, it seems to me that this is the least we can do to help charitable organizations, which, as we all know, provide valuable services to many, many people. We all support charities, and give speeches about the good work they do, and now we have an opportunity to help charities raise additional money to carry out their activities. I hope we can have a hearing on this measure this year, and that the Select Revenue Measures Subcommittee in the House will also consider this legislation promptly. The revenue loss resulting from this proposed change would be very small—less than $5 million annually—while at the same time the benefit to many charitable organizations around the country would be very great.

Mr. President, I urge my colleagues to support this effort, and I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2908

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

(a) That Section 513 of the Internal Revenue Code of 1954 (relating to unrelated trade or business) is amended by adding at the end thereof the following new subsection:

"(h) EXCHANGES AND RENTALS OF NAMES FROM DONOR LISTS OR MEMBERSHIP LISTS.—

"(1) GENERAL RULE.—For purposes of this section the term "trade or business" does not include the following activities:

"(A) In the case of an organization that is a private corporation established under federal law, any rental or exchange of a donor or membership list to the organization described in Section 501, contribution to which are deductible under Section 170; or

"(B) In the case of any other organization described in Section 501, contributions to which are deductible under Section 170, any exchange of a donor or membership list with a similar organization.

"(2) DEFINITION.—For purposes of this subsection, the term 'private corporation established under federal law' means an organization which is subject to sections 2 and 3 of the Act of August 30, 1964 (36 U.S.C. 1102, 1103)."

(b) The amendment made by subsection (a) shall apply to taxable years ending after the date of enactment of this Act.

By Mr. LAUTENBERG (for himself, Mr. INOUYE, Mr. PELL, Mr. BRADLEY, and Mr. METZENBAUM):

S. 2909. A bill to increase the availability of educational television programming for children; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S TELEVISION EDUCATION ACT

● Mr. LAUTENBERG. Mr. President, today I introduce the Children's Television Education Act of 1984 to move our Nation's television broadcasters to better serve the educational and informational needs of the children in their viewing audiences. I am joined by my colleagues, Senators INOUYE, PELL, BRADLEY, and METZENBAUM. The bill is quite simple. It would require a mere hour a day of programming designed to enhance the education of children.

While an hour a day may seem quite modest, the fact is that commercial broadcasters fall far short of that. Indeed, the reason this legislation is necessary is that broadcasters have failed to adequately serve the needs of children, and a majority on the Federal Communications Commission has abdicated its responsibility to do anything to remedy the situation.

Mr. President, we live in an information age. Electronic media play an increasing role in the lives of our children, their acculturation, and the formation of their views and values. Despite the advent of new technologies—in cable television, and video cassette players—broadcast television is still the most pervasive of the mass media. By the time an average student graduates from high school in our Nation, he or she will have spent more time watching television than in the classroom.

Study upon study has shown that television has the potential for enhancing the education of our children. I am not talking about dry, dull programming that a child will avoid. "Sesame Street"—produced on noncommercial television—is an entertaining, attractive program that children like to watch, and which educates them as well. A commercial program like "Roots" was entertaining, but it was edifying, and taught those who saw it something about the history of blacks in America. Other nations have recognized the educational potential of television. England, Sweden, Australia, and Japan, for example, mandate more than 10 hours a week of educational programming for children.

In the United States, broadcasters who utilize scarce electronic spectrum, under licensure by the Government, have an obligation to use that spectrum to serve the public interest. There should be little question that meeting the needs of children is part of a broadcaster's statutory obligation to serve the public.

Mr. President, that obligation has not been met. Prodded by advocates for children's television, the Federal Communications Commission conducted a major study, concluding in a declaration in 1974 that broadcasters had a "special and important obligation" to serve children, and that broadcasters should make a meaningful effort to increase children's programming. Yet, the amount of children's programming has dropped, from an average of 10.5 hours a week in 1974, to 4.4 hours a week in 1983, according to the FCC and a study by the House Telecommunications, Consumer Protection and Finance Subcommittee. There is no regularly scheduled weekday programming for children.

In response to this disturbing trend, Mr. President, the FCC this year concluded its 14-year proceeding on children's television by taking no action. It took no action despite a record that strongly suggested that children's programs were in short supply. As Commissioner Henry Rivera stated, in dissent, "At a time when the educational training and fitness of children are subject to increasing criticism, the committee's indifference is unfortunate, if not outrageous."

It is this failure of leadership, Mr. President, which the Congress must remedy. The legislation I introduce today is virtually identical to H.R. 4097, sponsored by the Representative from Colorado [Mr. WIRTH] and cosponsored by more than 70 of his colleagues.

Some may argue that requiring an hour a day of children's programming will not necessarily produce quality programming. I am not persuaded by this argument. Once broadcasters are required to attend to the children in their audience, market forces will drive them to attract as many young viewers as they can, and they will do that by airing attractive educational programming. Moreover, this bill would create an incentive for broadcasters to improve their performance respecting children's needs to assure renewal of their licenses. Unfortunately, the FCC has let broadcasters know that children's television does not matter very much.

Mr. President, I recognize that the approach offered in this bill is not the only way to ensure adequate educational programming for children. I am open to other alternatives that will satisfy the same goals. But, doing nothing is no answer. It is time for the Congress to address the public interest served by providing quality, educational programming for our Nation's children.

During this session of the Congress, the Senate has supported significant deregulation of broadcasters. Indeed, I joined in voting in the Senate Commerce Committee for S. 55, broadcast deregulation legislation. While I confessed at the time to some reservations, I still believe that broadcasters should be relieved of unnecessary, or unduly burdensome regulation. However, under no circumstances should they be relieved of their obligation to serve the public interest. In the case of children, this is what has happened. The tide must be turned.

I urge my colleagues to join in supporting this legislation. I ask unanimous consent that the full text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2909

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Children's Television Education Act of 1984".

FINDINGS

SEC. 2. The Congress finds that—

(1) a series of expert commissions have documented serious shortcomings in our Nation's educational system, which will profoundly affect both the opportunities available to our Nation's children, and the ability of the United States to compete effectively in an international economy;

(2) by the time the average student graduates from high school, that child has spent more time watching television than in the classroom;

(3) the potential of television programing for making a major positive impact in improving the education of children has generally been overlooked;

(4) the educational potential of television is apparent because—

(A) children can learn a wide variety of information, skills, values, and behavior from television;

(B) it can be instrumental in giving children greater reading and mathematical proficiency; and

(C) it can simultaneously educate and entertain children, motivating them to learn about the world around them;

(5) commercial television does not currently provide any weekly or daily scheduled educational programing designed for children;

(6) the Federal Communications Commission in concluding its proceeding on children's television, has declined to take effective steps to increase educational programming designed for children on commercial television;

(7) despite diminishing Federal financial support, public broadcasting continues to provide the only significant educational programming for children broadcast on television;

(8) despite the advent of new electronic technologies, including cable television and video cassette players, broadcast television remains the most effective and pervasive mass medium; and

(9) it is in the public interest to significantly increase educational television programing designed for children.

SEC. 3. Part I of title III of the Communications Act of 1934 is amended by redesignating the last section as section 333 and by inserting before such section the following:

"CHILDREN'S TELEVISION PROGRAMMING

"SEC. 332. (a) It is the purpose of this section—

"(1) to further use the potential of television for the positive educational benefit of our Nation's children;

"(2) to encourage the development of educational programing for children; and

(3) to increase the amount of educational programing broadcast which is specifically designed for children.

"(b) Every television broadcast station shall broadcast each Monday through Friday a minimum of one hour per day of programing specifically designed to enhance the education of children.

"(c)(a) The commission shall prescribe such regulations as are necessary to carry out the purpose of this section.

"(2) Such regulations shall be initially prescribed not later than one hundred and eighty days after the date of the enactment of this section.

"(3) Beginning four years after such date of enactment, and periodically thereafter, the Commission shall review the effectiveness of the regulations prescribed under this section and, on the basis of such review, amend or supplement such regulations to the extent necessary to assure that such regulations carry out the purpose of this section. Such regulations may require a greater amount of broadcasting of children's educational television programing than is specified in subsection (b).".●

● Mr. METZENBAUM. Mr. President, I am pleased to join in cosponsoring the Children's Television Education Act of 1984.

As every parent, grandparent, aunt, uncle, or family friend knows—sometimes all too well—children spend a great deal of time watching television. Yet, the amount of educational programming aimed at children is dismally low.

Last year, the Subcommittee on Telecommunications of the House Energy and Commerce Committee sent out a questionnaire to commercial television licensees, asking them how much air time they devoted to children's programming. The results were disturbing. While 60 percent of the broadcasters declined to respond, those who did said that less than 1 percent—0.77 percent to be exact—of daily air time was devoted to children's educational programs. That translated into 61 minutes per week. Cartoons, on the other hand, accounted for 152 minutes of weekly air time.

Commercial television stations devote less time to educational and informational programming than do public broadcasters. One recent survey of TV programs aired over the course of a week on Washington, D.C. stations showed that the 8 percent of commercial air time dedicated to children was comprised mostly of cartoons. On the other hand, the 6 percent of air time devoted to children on public television included such educational programs as "Sesame Street," "Mister Rogers," and the "The Electric Company." Unfortunately, cutbacks in Federal funding of public television can only hurt what little headway has been made in public television programming for children.

Under the Reagan administration, the Federal Communications Commission has shown little or no interest in improving the quality of children's television. In fact, the ideologues at the FCC have ignored their responsiblity to see to it that the public airwaves are used at least in part in the public interest. Their approach is to let market forces determine what will or will not be shown on television.

Well, Mr. President, even the Commissioners of the FCC should know that children cannot fend for themselves in the marketplace. And not even they can deny that, until now, commercial broadcasters have shown little inclination or willingness to put good, educational programming for children on the air. I do not believe that we can rely on the marketplace to do what ought to be the job of the FCC. For that reason I am today joining Senator LAUTENBERG and others in introducing this legislation to require commercial television stations to broadcast an hour of educations programming for children 5 days a week.

The Children's Television Education Act of 1984 is the very least we can do to improve the television fare to which the Nation's children are exposed. I hope that we can move expeditiously to enact this bill.●

By Mr. THURMOND (for himself, Mr. HOLLINGS, Mr. HELMS, Mr. COCHRAN, Mr. DENTON, Mr. TRIBLE, Mr. DANFORTH, Mr. MATHIAS, Mr. ROTH, Mr. PRYOR, Mr. BENTSEN, Mr. SASSER, Mr. D'AMATO, Mr. STENNIS, Mr. CHILES, Mr. BURDICK, Mr. LONG, Mr. NUNN, Mr. GLENN, Mr. MATTINGLY, Mr. HEFLIN, Mr. JOHNSTON, Mr. BIDEN, Mr. EAST, Mr. HUDDLESTON, Mr. LAXALT, Mr. HART, Mr. HEINZ, Mr. BAKER, Mr. DOLE, Mr. PRESSLER, Mr. RIEGLE, Mr. WILSON, Mr. SPECTER, and Mr. NICKLES):

S.J. Res. 340. Joint resolution to designate the week of September 23, 1984, as "National Historically Black Colleges Week"; to the Committee on the Judiciary.

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

Mr. THURMOND. Mr. President, it gives me great pleasure today to introduce, along with Senators HOLLINGS, HELMS, COCHRAN, TRIBLE, DANFORTH, MATHIAS, DENTON, BIDEN, EAST, HEFLIN, HUDDLESTON, LAXALT, HART, HEINZ, BAKER, DOLE, PRESSLER, ROTH, PRYOR, BENTSEN, SASSER, STENNIS, CHILES, BURDICK, LONG, D'AMATO, RIEGLE, WILSON, SPECTER, NICKLES, MATTINGLY, NUNN, GLENN, and JOHNSTON, Senate Joint Resolution 340, which authorizes and requests the President to designate the week of September 23, 1984, as "National Historically Black Colleges Week."

The importance of this commemorative joint resolution is that it recognizes the contributions to society of the 103 historically black colleges and universities. I am particularly pleased that 6 of these 103 historically black institutions of higher learning; namely, Allen University, Benedict College, Claflin College, South Caroli-

na State College, Morris College, and Voorhees College are located in my own State of South Carolina. These colleges are vital to the higher education system in my State. They have provided the opportunity for thousands of minority young people in South Carolina to go to college who would not have been able to afford a college education if these schools were not available.

Mr. President, hundreds of thousands of young Americans have received quality education at these 103 schools. These institutions have a long and distinguished history of providing the training necessary for participation in a rapidly changing society. The predominantly black colleges and universities in America have offered to our citizens a variety of curriculums and programs through which they could develop their skills and talents, thereby expanding their opportunities as individuals and laying the foundation for continued social progress.

Mr. President, through passage of this commemorative joint resolution, Congress can reaffirm its support of our historically black colleges and appropriately recognize their place at the center of our Nation's higher education system. I invite my Senate colleagues to join as cosponsors of this joint resolution, and I ask unanimous consent that a copy of the joint resolution appear in the RECORD following my remarks.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 340

Whereas there are one hundred and three historically black colleges and universities in the United States; and

Whereas they are providing the quality education so essential to full participation in our complex, highly technological society; and

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history; and

Whereas these institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of these historically black colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 23, 1984, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe that week by engaging in appropriate ceremonies, activities, and programs, thereby showing their support of historically black colleges and universities in the United States.

ADDITIONAL COSPONSORS

S. 657

At the request of Mr. BYRD, his name was added as a cosponsor of S. 657, a bill to amend the Animal Welfare Act to ensure the proper treatment of laboratory animals.

S. 1795

At the request of Mr. MOYNIHAN, the name of the Senator from Arkansas [Mr. BUMPERS] was added as a cosponsor of S. 1795, a bill to further the national security and improve the economy of the United States by providing grants for the improvement of proficiency in critical languages, for the improvement of elementary and secondary foreign language instruction, and for per capita grants to reimburse institutions of higher education to promote the growth and improve the quality of postsecondary foreign language instruction.

S. 1816

At the request of Mr. THURMOND, the name of the Senator from Rhode Island [Mr. CHAFEE] was added as a cosponsor of S. 1816, a bill to amend the Textile Fiber Products Identification Act, the Tariff Act of 1930, and the Wool Products Labeling Act of 1939 to improve the labeling of textile fiber and wool products.

S. 1910

At the request of Mr. PRESSLER, the name of the Senator from Illinois [Mr. PERCY] was added as a cosponsor of S. 1910, a bill to adapt principles of the Administrative Procedures Act to assure public participation in the development of certain positions to be taken by the United States in international organizations, and for other purposes.

S. 2258

At the request of Mr. MOYNIHAN, the names of the Senator from Indiana [Mr. LUGAR], and the Senator from Washington [Mr. GORTON] were added as cosponsors of S. 2258, a bill to grant a Federal charter to the 369th Veterans' Association.

S. 2324

At the request of Mr. PACKWOOD, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 2324, a bill to amend the Coastal Zone Management Act of 1972 regarding activities directly affecting the coastal zone.

S. 2423

At the request of Mr. THURMOND, the name of the Senator from Hawaii [Mr. MATSUNAGA] was added as a cosponsor of S. 2423, a bill to provide financial assistance to the States for the purpose of compensating and otherwise assisting victims of crime, and to provide funds to the Department of Justice for the purpose of assisting victims of Federal crime.

S. 2433

At the request of Mr. DANFORTH, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of S. 2433, a bill to amend chapter 35 of title 44, United States Code, relating to the coordination of Federal information policy, and for other purposes.

S. 2753

At the request of Mr. HATFIELD, the name of the Senator from Louisiana [Mr. LONG] was added as a cosponsor of S. 2753, a bill to provide for the buyout of certain contracts for Federal timber.

S. 2770

At the request of Mr. MELCHER, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of S. 2770, a bill to protect consumers and franchised automobile dealers from unfair price discrimination in the sale by the manufacturer of new motor vehicles, and for other purposes.

S. 2774

At the request of Mrs. KASSEBAUM, the names of the Senator from Arizona [Mr. GOLDWATER] the Senator from Louisiana [Mr. JOHNSTON], the Senator from Kentucky [Mr. HUDDLESTON], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 2774, a bill to grant a Federal charter to the National Society, Daughters of the American Colonists.

S. 2857

At the request of Mr. ANDREWS, the name of the Senator from Minnesota [Mr. BOSCHWITZ] was added as a cosponsor of S. 2857, a bill to enable honey producers and handlers to finance a nationally coordinated research, promotion, and consumer information program designed to expand their markets for honey.

S. 2866

At the request of Mr. MOYNIHAN, the name of the Senator from Louisiana [Mr. JOHNSTON] was added as a cosponsor of S. 2866, a bill to authorize the Attorney General of the United States to make grants to States for the purpose of increasing the level of State and local enforcement of State laws relating to production, illegal possession, and transfer of controlled substances; to authorize the Secretary of Health and Human Services to make grants to States for the purpose of increasing the ability of States to provide drug abuse prevention, treatment, and rehabilitation; and for other purposes.

SENATE JOINT RESOLUTION 319

At the request of Mr. DOLE, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 319, a joint resolution to amend the Agriculture and Food Act of 1981 to provide for the establishment of a commission to study and make recommendations con-

cerning agriculture-related trade and export policies, programs, and practices of the United States.

SENATE JOINT RESOLUTION 320

At the request of Mr. PERCY, the names of the Senator from Rhode Island [Mr. PELL], the Senator from Michigan [Mr. LEVIN], the Senator from Pennsylvania [Mr. HEINZ], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from North Dakota [Mr. BURDICK], the Senator from Kansas [Mrs. KASSEBAUM], the Senator from Nebraska [Mr. EXON], the Senator from Maryland [Mr. SARBANES], the Senator from Iowa [Mr. GRASSLEY], the Senator from Missouri [Mr. DANFORTH], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Florida [Mr. CHILES], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Washington [Mr. EVANS], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Vermont [Mr. LEAHY], the Senator from Washington [Mr. GORTON], the Senator from Maine [Mr. COHEN], and the Senator from Arkansas [Mr. PRYOR] were added as cosponsors of Senate Joint Resolution 320, a joint resolution regarding the implementation of the policy of the U.S. Government in opposition to the practice of torture by any foreign government.

SENATE JOINT RESOLUTION 333

At the request of Mr. BYRD, his name was added as a cosponsor of Senate Joint Resolution 333, a joint resolution to designate September 21, 1984, as "World War I Aces and Aviators Day."

SENATE JOINT RESOLUTION 334

At the request of Mr. DOLE, the name of the Senator from Kentucky [Mr. HUDDLESTON] was added as a cosponsor of Senate Joint Resolution 334, a joint resolution to provide for the designation of the month of November 1984, as "National Hospice Month."

SENATE JOINT RESOLUTION 336

At the request of Mr. DENTON, the names of the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Maryland [Mr. SARBANES], the Senator from New York [Mr. MOYNIHAN], and the Senator from Connecticut [Mr. DODD] were added as cosponsors of Senate Joint Resolution 336, a joint resolution to proclaim October 23, 1984, as "A Time of Remembrance" for all victims of terrorism throughout the world.

SENATE JOINT RESOLUTION 338

At the request of Mr. STEVENS, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Joint Resolution 338, a joint resolution to congratulate the athletes of the U.S. Olympic team for their performance and achievements in the 1984 winter Olympic games in Sarajevo, Yugoslavia, and the 1984 summer Olympic games in Los Angeles, CA.

SENATE CONCURRENT RESOLUTION 124

At the request of Mr. HEINZ, the name of the Senator from Oregon [Mr. PACKWOOD] was added as a cosponsor of Senate Concurrent Resolution 124, a concurrent resolution expressing the sense of the Congress that the Senior Companion Program be commended on its 10th anniversary for its success in providing volunteer opportunities for older Americans.

SENATE RESOLUTION 412

At the request of Mr. HOLLINGS, the names of the Senator from Virginia [Mr. TRIBLE], the Senator from New Mexico [Mr. DOMENICI], the Senator from Texas [Mr. BENTSEN], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 412, a resolution to congratulate and commend the USA Philharmonic Society.

SENATE CONCURRENT RESOLUTION 132—CONGRATULATING JOAN BENOIT FOR WINNING A GOLD MEDAL IN THE WOMEN'S MARATHON IN THE XXIII OLYMPIAD

Mr. MITCHELL (for himself and Mr. COHEN) submitted the following concurrent resolution; which was placed on the calendar by unanimous consent:

S. CON. RES. 132

Whereas, Joan Benoit of Freeport, Maine, a graduate of Bowdoin College, on Sunday, August 5, in the City of Los Angeles, won the Women's Marathon in the XXIII Olympiad;

Whereas, the Women's Marathon was run for the first time in modern Olympic history at the XXIII Olympiad;

Whereas, Joan Benoit's winning time of 2 hours, 24 minutes, and 52 seconds becomes the Olympic record for the Women's Marathon and also stands as the fastest time ever clocked by a participant in an all-women's marathon event, and the third fastest time ever clocked by a woman in any marathon; and

Whereas, Joan Benoit demonstrated great courage and determination when she qualified to participate in the XXIII Olympiad only seventeen days following arthroscopic surgery on her right knee; and

Whereas, Joan Benoit, winner of the 1983 Boston Marathon and women's world record holder in the marathon, prevailed in an Olympic field which included the 1983 Women's World Champion and the previous world record holder for an all-women's marathon event; now therefore, be it

Resolved by the Senate (The House of Representatives concurring), That it is the sense of the Congress that Joan Benoit be heartily congratulated for her outstanding accomplishment in the XXIII Olympiad; and that the Congress urges all young American athletes to draw inspiration from the example of discipline, training, hard work and ability provided by Joan Benoit, a superior competitor who has brought distinction to herself, her family and coaches, her state and her nation.

Mr. MITCHELL. Mr. President, I rise to submit a concurrent resolution honoring Joan Benoit, a Maine native, the winner of yesterday's first-ever women's Olympic marathon.

This feat, in and of itself, is a tremendous accomplishment for this outstanding 27-year-old runner. But simply saying Joan Benoit won yesterday belies the extraordinary circumstances surrounding yesterday's race, the magnificent race Joan ran, and the dedication and sacrifice demonstrated by Joan in the months leading up to yesterday's marathon.

In the heat at Los Angeles, Joan Benoit yesterday ran the third-fastest marathon ever for a woman: 2 hours, 24 minutes, 52 seconds. In order to make that time, which averages 5:30 a mile over 26 miles, 385 yards, Joan had to run almost the entire race, by herself, in the lead, with all the difficulties and pressures which accompany such a tactic. In addition, her victory yesterday came over what may have been the greatest field of women marathoners ever assembled, including silver medalist Greta Waitz of Norway—five-time winner of the New York Marathon—and Julie Brown of the United States, the previous world record holder in an all-women's marathon.

With yesterday's win, Joan Benoit now holds two of the three fastest times ever recorded by a woman in this most grueling of races. She has recorded the fastest time ever for a woman in a marathon—2:22.43, in winning the 1983 Boston Marathon—and the fastest time ever for an all-women's marathon.

But what makes Joan's victory yesterday even more remarkable, I would say miraculous, is the circumstances by under which Joan qualified for the U.S. team in May. Joan Benoit underwent arthroscopic surgery on her right knee on April 26. The surgery was performed only 17 days before she ran in, and won, the U.S. Olympics trials in Olympia, WA.

Mr. President, I take no small amount of pride in the fact that Joan Benoit is a graduate of Bowdoin College, my alma mater, and a life-long resident of Maine. I believe her accomplishments merit our congratulations, but her dedication, determination, and perseverance deserves our commendation. So with my distinguished colleague, BILL COHEN, who is also a graduate of Bowdoin College, I am delighted to submit this concurrent resolution honoring this extraordinary American athlete.

Mr. COHEN. Mr. President, I am delighted to join with my distinguished colleague from Maine, Senator MITCHELL, in paying tribute to one of our State's most remarkable natural resources, Joan Benoit.

As the world knows by now, Joan won the first women's Olympic marathon in history yesterday. But the significance of her accomplishment goes beyond this one race.

Since the first modern Olympic games in Greece in 1896, only men have been allowed to compete in the grueling marathon event, a test of stamina and endurance stretching more than 26 miles. In fact, until yesterday women had never run more than a mile at the Olympics. The myth that women lack the conditioning to participate in longer runs was forever shattered yesterday by a diminutive woman from Maine who is one of the finest and most courageous athletes of this or any era.

Senator MITCHELL and I have the good fortune to know Joan; in fact, she attended our joint alma mater, Bowdoin College in Brunswick, ME. Her victory yesterday, coming only a few months after dangerous and complicated arthroscopic surgery on her right knee, is a special source of pride for Bowdoin College and the entire State of Maine.

The concurrent resolution we sponsor today asks the Congress to take note of Joan's magnificent accomplishment, and I ask my colleagues to join us in this effort.

SENATE RESOLUTION 426—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. DANFORTH, from the Committee on Governmental Affairs, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 426

Resolved, that pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2433, a bill to amend chapter 35 of title 44, United States Code, relating to the coordination of Federal information policy, and for other purposes. Such waiver is necessary to permit reauthorization of funds for the functions of the Office of Information and Regulatory Affairs of the Office of Management and Budget under chapter 35 of title 44, United States Code.

SENATE RESOLUTION 427—ORIGINAL RESOLUTION REPORTED WAIVING CONGRESSIONAL BUDGET ACT

Mr. PACKWOOD, from the Committee on Commerce, Science, and Transportation, reported the following original resolution; which was referred to the Committee on the Budget:

S. RES. 427

Resolved, That, pursuant to section 402(c) of the Congressional Budget Act of 1974, the provisions of section 402(a) of such Act are waived with respect to the consideration of S. 2160. Such waiver is necessary because S. 2160 authorizes the enactment of new budget authority which would first become available in fiscal year 1985 and such bill was not reported on or before May 15, 1984, as required by section 402(a) of the Congressional Budget Act of 1974 for such authorizations.

The Committee on Commerce, Science, and Transportation did not report S. 2160 prior to May 15, 1984, in order to allow for negotiations regarding amendments to the bill as introduced.

S. 2160 establishes a National Fisheries Marketing Council, to conduct various research, education and promotional projects and studies regarding fisheries products. The authorization contained in S. 2160 is necessary to ensure that sufficient funds are available for the Council to conduct its activities under the bill.

Section 8 of S. 2160 establishes a revolving fund to carry out the Council's activities, and provides that there is to be deposited into this fund for fiscal year 1985 a total amount of $14,000,000. This sum is to be drawn from the fisheries loan fund established pursuant to section 4(c) of the Fish and Wildlife Act of 1956 (16 U.S.C. 742c(c)) and from the fund used by the Administrator of the National Oceanic and Atmospheric Administration pursuant to section 2(b) of the Act entitled "An Act to authorize the Federal Surplus Commodities Corporation to purchase and distribute surplus products of the fishing industry", approved August 11, 1939 (commonly referred to as the Saltonstall-Kennedy Act) (15 U.S.C. 713c-(b)). Section 13 of the bill authorizes appropriations for fiscal year 1985 to carry out the purposes of S. 2160.

AMENDMENTS SUBMITTED

DISASTER RELIEF ACT AMENDMENTS

HUMPHREY AND BURDICK AMENDMENT NO. 3591

(Ordered to lie on the table.)

Mr. HUMPHREY (for himself and Mr. BURDICK) submitted an amendment intended to be proposed by him to the bill (S. 2517) to amend the Disaster Relief Act of 1974, and for other purposes; as follows:

On page 25, line 16, strike out "2.5" and insert in lieu thereof "10".

On page 31, beginning with line 17, strike out through line 15 on page 32 and insert the following:

SEC. 24. (a) Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect ninety days after the date of enactment of this Act or on the date on which the President, after consultation with State and local governments, publishes final rules and regulations relating to the definition of costs for which State and local governments may be reimbursed under the Disaster Relief Act of 1974 (as amended by this Act), whichever is later.

(b)(1) This Act and the amendments made by this Act shall not affect the administration of any assistance provided under the authority of the Disaster Relief Act of 1974, for any major disaster or emergency declared by the President prior to the effective date of this Act.

(2) Except with regard to section 409(a) of the Disaster Relief Act of 1974, as redesignated by sections 11(c) and 12 of this Act, (relating to disaster unemployment assistance)—

(A) rules and regulations issued under statutory provisions which are repealed, modified, or amended by this Act shall continue in effect as though issued under the authority of this Act until they are expressly abrogated, modified, or amended by the President; and

(B) provision of disaster assistance authorized by statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder, or proceedings involving violations of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are in process prior to the effective date of this Act, may be continued to conclusion as though the applicable statutory provisions had not been repealed, modified, or amended.

(3) Violations of statutory provisions or rules and regulations issued under the authority of statutory provisions repealed, modified, or amended by this Act or rules and regulations issued thereunder which are committed prior to the effective date of this Act may be proceeded against under the law in effect at the time of the specific violation.

On page 2, line 5, strike out ", as amended (42 U.S.C. 5122(1))," and insert "(42 U.S.C. 5122(1))".

On page 2, lines 16 and 17, strike out ", as amended (Public Law 93-288)," and insert "(Public Law 93-288)".

On page 5, line 19, strike out ", as amended (42 U.S.C. 5122(2))," and insert "(42 U.S.C. 5122(2))".

On page 6, lines 7 and 8, strike out ", as amended (42 U.S.C. 5131-5132)," and insert "(42 U.S.C. 5131-5132)".

On page 6, lines 17 and 18, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 6, lines 22 and 25, strike out "302" and insert "301, as redesignated by paragraph (1) of this section,".

On page 7, line 4, strike out "311(a)" and insert "308(a) as redesignated by paragraph (1) of this section,".

On page 7, strike out lines 6 and 7 and insert in lieu thereof "Sec. 8. Section 302(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5143(a)), as redesignated by section 7(1) of this Act, is amended by adding".

On page 7, strike out lines 11 and 12 and insert in lieu thereof "Sec. 9. Section 311 of the Disaster Relief Act of 1974 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, is amended by redesignating".

On page 8, strike out lines 13 and 14 and insert in lieu thereof "Sec. 10. Section 312 of the Disaster Relief Act of 1974 (42 U.S.C. 5155), as redesignated by section 7(1) of this Act, is amended to read as".

On page 10, line 10, strike out ", as amended (42 U.S.C. 5141-5158)," and insert "(42 U.S.C. 5141-5158)".

On page 14, strike out lines through 8 and insert in lieu thereof the following: "(b) Title III of the Disaster Relief Act of 1974 is amended by deleting subsections (a) and (c) of section 314 (42 U.S.C. 5157), as redesignated by section 7(1) of this Act, and by renumbering '(b)' from the remaining subsection of section 314 as subsection '(f)' of section 318 as added by section 11(a) of this Act.".

On page 14, lines 9 and 10, strike out ", as amended,".

On page 14, after line 11 add a new subsection as follows: "(d) Section 315 of the Dis-

aster Relief Act of 1974 (42 U.S.C. 5158), as redesignated by section 7(1) of this Act, is further redesignated as section 314.".

On page 14, lines 12 and 13, strike out ", as amended (42 U.S.C. 5171-5189)," and insert "(42 U.S.C. 5171-5189)".

On page 19, strike out lines 16 and 17 and insert in lieu thereof "Sec. 13.(a) Section 405 of the Disaster Relief Act of 1974 (42 U.S.C. 5172), as redesignated by section 12 of this Act, is amended to read as".

On page 20, line 17, strike out "limited to".

On page 21, lines 17 and 18, strike out "based on".

On page 22, line 2, after "government" insert "and".

On page 22, line 5, strike out "based on" and insert in lieu thereof "that shall be".

On page 22, strike out lines 19 through 22 and insert in lieu thereof the following: "(b) The Disaster Relief Act of 1974 is amended by deleting section 421 (42 U.S.C. 5189), as redesignated by sections 11(c) and 12 of this Act, and by striking 'or 419' each place that this phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act.".

On page 22, strike out lines 23 and 24 and insert in lieu thereof "(c) Section 406 of the Disaster Relief Act of 1974 (42 U.S.C. 5173), as redesignated by section 12 of this Act, is amended by adding at the end".

On page 23, line 5, strike out "not exceed" and insert in lieu thereof "be".

On page 23, line 7, strike out "or" and insert in lieu thereof "of".

On page 23, strike out lines 8 and 9 and insert in lieu thereof "Sec. 14. Section 407(a) of the Disaster Relief Act of 1974, as redesignated by section 12 of this Act, is amended to read as follows: ".

On page 24, lines 24 and 25, strike out "limited to".

On page 25, strike out lines 3 through 5 and insert in lieu thereof "Sec. 15. Section 408 of the Disaster Relief Act of 1974 (42 U.S.C. 5176), as redesignated by sections 11(c) and 12 of this Act, is amended by adding '(a)' after '408' and by adding a new subsection '(b)' as ".

On page 25, strike out lines 19 and 20 and insert in lieu thereof "Sec. 16. Section 409(a) of the Disaster Relief Act of 1974 (42 U.S.C. 5177), as redesignated by sections 11(c) and 12 of this Act, is amended to read as ".

On page 27, strike out lines 8 and 9 and insert in lieu thereof "Sec. 17. (a) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding a".

On page 27, line 12, strike out "408(b)" and insert "410(b)".

On page 27, strike out lines 15 and 16 and insert in lieu thereof "(b) Section 410(b) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is further amended by adding the following sen-".

On page 28, strike out lines 3 and 4 and insert in lieu thereof "Sec. 18. Section 410(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5178), as redesignated by sections 11(c) and 12 of this Act, is amended by adding".

On page 28, strike out lines 12 and 13 and insert in lieu thereof "Sec. 19. Section 415 of the Disaster Relief Act of 1974 (42 U.S.C. 5183), as redesignated by sections 11(c) and 12 of this Act, is amended by striking".

On page 28, strike out lines 15 and 16 and insert in lieu thereof "Sec. 20. Section 420(d) of the Disaster Relief Act of 1974 (42 U.S.C. 5188), as redesignated by sections 11(c) and 12 of this Act, is deleted.".

On page 28, line 18, strike out ", as amended (42 U.S.C. 5202)," and insert in lieu thereof "(42 U.S.C. 5202)".

On page 29, strike out lines 1 and 2 and insert in lieu thereof "Sec. 22. The Disaster Relief Act of 1974 (42 U.S.C. 5121-5202) is amended by-".

On page 29, strike out line 13 and insert in lieu thereof "308(b) (42 U.S.C. 5151), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 16 and insert in lieu thereof "tion 307 (42 U.S.C. 5150), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 17 and insert in lieu thereof "(6) striking in section 310(b) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, ev-".

On page 29, strike out line 22 and insert in lieu thereof "the phrase appears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act;".

On page 29, strike out line 24 and insert in lieu thereof "pears in section 311 (42 U.S.C. 5154), as redesignated by section 7(1) of this Act, and inserting in".

On page 30, strike out line 2 and insert in lieu thereof "word 'disaster' in section 313 (42 U.S.C. 5156), as redesignated by section 7(1) of this Act;".

On page 30, strike out line 8 and insert in lieu thereof "407(d) (42 U.S.C. 5174), as redesignated by section 12 of this Act;".

On page 30, strike out lines 9 and 10 and insert in lieu thereof "(12) striking '311' in section 407(d)(2) (42 U.S.C. 5174), as redesignated by section 12 of this Act, and inserting in lieu thereof '308';".

On page 30, strike out lines 11 and 12 and insert in lieu thereof "(13) striking 'an emergency or' in section 417 (42 U.S.C. 5185), as redesignated by sections 11(c) and 12 of this Act, and inserting in lieu thereof 'a';".

On page 30, strike out line 20 and insert in lieu thereof "appears in section 309(a), as redesignated by section 7(1) of this Act, and inserting in lieu thereof".

On page 30, strike out lines 22 and 23 and insert in lieu thereof "(17) striking 'rent' in section 310(a)(2) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and inserting in lieu thereof 'income';".

On page 31, strike out lines 1 and 2 and insert in lieu thereof "(18) striking paragraph (1) of section 310(a) (42 U.S.C. 5153), as redesignated by section 7(1) of this Act, and renumbering subsequent paragraphs".

● Mr. HUMPHREY. Mr. President, I am submitting an amendment to S. 2517, the "Disaster Relief Act Amendments of 1984." The bill was introduced by myself and Senator QUENTIN BURDICK on April 2, and the Committee on Environment and Public Works reported the bill on May 15. I am glad that Senator BURDICK also joins me in submitting this amendment.

There are two notable changes to the bill that would be made by the amendment. First, section 15 of the bill would authorize the Federal Emergency Management Agency to contribute 50 percent of the cost of hazard mitigation projects, with State and local governments contributing 50 percent. Total Federal expenditures would be limited to 2.5 percent of the Federal cost of repair and replacement of State and local public facilities. The amendment would increase the authorized level of Federal participation from 2.5 percent—estimated to be about $2 million a year on average—to 10 percent—about $10 million annually.

Second, the bill's effective date is 90 days following enactment. The amendment would change the effective date to 90 days after enactment or on the date on which FEMA publishes final rules and regulations relating to the definition of costs for which State and local governments may be reimbursed under the Disaster Relief Act of 1974, whichever is later.

Other changes made by the amendment are technical or conforming in nature—primarily to conform to the legislative drafting format in practice by legislative counsel.●

REAUTHORIZATION OF CERTAIN CHILD NUTRITION PROGRAMS

BOSCHWITZ (AND OTHERS) AMENDMENT NO. 3592

(Ordered to lie on the table.)

Mr. BOSCHWITZ (for himself, Mr. JEPSEN, Mr. ANDREWS, Mr. RANDOLPH, Mr. MOYNIHAN, Mr. DANFORTH, Mr. MATSUNAGA, and Mr. DECONCINI) submitted an amendment intended to be proposed by them to the bill (S. 2722) to amend the National School Lunch Act and the Child Nutrition Act of 1966 to reauthorize certain child nutrition programs for fiscal years 1985 and 1986; as follows:

Strike out all after the enacting clause and insert in lieu thereof the following: That this Act may be cited as the "National School Lunch and Child Nutrition Programs Reauthorization Act of 1984".

INCOME VERIFICATION

SEC. 2. Section 9(b)(2)(C) of the National School Lunch Act (42 U.S.C. 1758(b)(2)(C)) is amended by adding at the end thereof the following new sentence: "To the extent that funds are appropriated for such purpose pursuant to section 3, the Secretary shall reimburse local school food authorities for the direct costs, as defined by commonly accepted accounting principles, attributable to such verification.".

REDUCED-PRICE LUNCHES

SEC. 3. (a) Section 9(b)(3) of the National School Lunch Act (42 U.S.C. 1758(b)(3)) is amended by striking out "40 cents" in the last sentence and inserting in lieu thereof "30 cents".

(b) Section 11 (a)(2) of such Act (42 U.S.C. 1759a (a) (2)) is amended by striking out "40 cents" and inserting in lieu thereof "30 cents".

A LA CARTE FOOD SERVICE

SEC. 4. Section 9 of the National School Lunch Act (42 U.S.C. 1758) is amended by adding at the end thereof the following new subsection:

"(e) A school or school food authority participating in a program under this Act may not contract with a food service company to provide a la carte food service under such program unless such company agrees to

offer free, reduced-price, and full-price reimbursable meals to all children eligible for such meals under this Act.".

USE OF SCHOOL LUNCH FACILITIES FOR PROGRAMS FOR THE ELDERLY

SEC. 5. Section 12 of the National School Lunch Act (42 U.S.C. 1760) is amended by adding at the end thereof the following new subsection:

"(i) Facilities, equipment, and personnel provided to school food authorities for programs conducted under this Act and the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) may be used, as determined by the local educational agency, to support nonprofit nutrition programs for the elderly (including programs conducted under the Older Americans Act of 1965 (42 U.S.C. 3021 et seq.)).".

SUMMER FOOD SERVICE PROGRAM FOR CHILDREN

SEC. 6. Section 13(p) of the National School Lunch Act (42 U.S.C. 1761(p)) is amended by striking out "1984" and inserting in lieu thereof "1986".

COMMODITY DISTRIBUTION PROGRAM

SEC. 7. Section 14(a) of the National School Lunch Act (42 U.S.C. 1762a (a)) is amended by striking out "1984" and inserting in lieu thereof "1986".

PROCESSING AGREEMENTS

SEC. 8. (a) Section 14 of the National School Lunch Act (42 U.S.C. 1762a) is amended by adding at the end thereof the following new subsection:

"(g)(1) During the period beginning on the date of the enactment of the National School Lunch and Child Nutrition Programs Reauthorization Act of 1984 and ending September 30, 1986, whenever a commodity is made available without charge or credit under any nutrition program administered by the Secretary, the Secretary shall encourage consumption thereof through agreements with private companies under which the commodity is reprocessed into end-food products for use by eligible recipient agencies, with the expense of the reprocessing to be borne by the recipient agencies.

"(2) In order to be eligible to enter into an agreement with the Secretary under paragraph (1), a private company must participate in the child nutrition labeling program established under appendix C of parts 210, 220, 225, and 226 of title 7, Code of Federal Regulations (49 Fed. Reg. 85, 18453 (May 1, 1984).

"(3) In order to be eligible to enter into an agreement with the Secretary under paragraph (1) or a State agency under section 250.15 of title 7, Code of Federal Regulations, a private company must annually settle the account of such company with the Secretary or such State agency, as the case may be, with respect to commodities processed under such agreement.".

(b) Section 203 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting "in accordance with section 14(g) of the National School Lunch Act" after "companies".

CHILD CARE FOOD PROGRAM

SEC. 9. Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by striking out "one supplement" and inserting in lieu thereof "two supplements".

SPECIAL MILK PROGRAM

SEC. 10. Section 3(a) of the Child Nutrition Act of 1966 (42 U.S.C. 1772(a)) is amended—

(1) by inserting "(except that the preceding limitation shall not apply to children in kindergarten programs in such schools)" immediately before ", and (2)" in the first sentence;

(2) by striking out "For" in the sixth sentence and inserting in lieu thereof "Except as provided in the following sentence, for";

(3) by inserting after the sixth sentence the following new sentence: "For the school year ending June 30, 1986, and for subsequent school years, the minimum rate of reimbursement for a half-pint of milk served to children in kindergarten programs in nonprofit schools that have meal service programs shall not be less than 5 cents per half-pint served to children ineligible for free milk, and such minimum rate of reimbursement shall be adjusted on an annual basis each school year to reflect changes in such Index."; and

(4) by striking out "Such adjustment" in the eighth sentence (as amended by clause (3)) and inserting in lieu thereof "The adjustments required by the preceding two sentences".

SCHOOL BREAKFAST REIMBURSEMENT

SEC. 11. (a) Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended by adding at the end thereof the following new paragraph:

"(3) In order to assist States in improving the nutritional qualities of breakfasts, the Secretary shall increase by 4 cents the annually adjusted payment for each breakfast served under this Act and section 17 of the National School Lunch Act (42 U.S.C. 1766).".

(b) Not later than one hundred and eighty days after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) review and revise the nutrition requirements for meals served under the school breakfast program established under the Child Nutrition Act of 1966 (42 U.S.C. 1771 et seq.) in order to improve the nutritional quality of such meals, taking into consideration both the findings of the National Evaluation of School Nutrition Programs and the need to provide increased flexibility in meal planning to local school food authorities; and

(2) promulgate regulations to implement such revisions.

REDUCED-PRICE BREAKFASTS

SEC. 12. Section 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)) is amended—

(1) by striking out "30 cents" in the second sentence of paragraph (1)(B) and inserting in lieu thereof "15 cents";

(2) by striking out "30 cents" in paragraph (1)(C) and inserting in lieu thereof "15 cents"; and

(3) by striking out "30 cents" in paragraph (2)(C) and inserting in lieu thereof "15 cents".

STATE ADMINISTRATIVE EXPENSES

SEC. 13. Section 7(i) of the Child Nutrition Act of 1966 (42 U.S.C. 1776(i)) is amended by striking out "1984" and inserting in lieu thereof "1986".

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 14. Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended—

(1) by striking out "1984" in subsection (c)(2) and inserting in lieu thereof "1986";

(2) in the first sentence of subsection (g)—

(A) by striking out "and" after "1983,"; and

(B) by inserting "$1,500,000,000 for the fiscal year ending September 30, 1985, and $1,600,000,000 for the fiscal year ending September 30, 1986," after "1984,"; and

(3) by striking out "1984" in subsection (h)(2) and inserting in lieu thereof "1986".

COORDINATION WITH AID TO FAMILIES WITH DEPENDENT CHILDREN PROGRAM

SEC. 15. Section 17(f)(1)(K) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)(1)(K)) is amended by inserting "the aid to families with dependent children program," after "child abuse counseling,".

NUTRITION EDUCATION AND TRAINING PROGRAM

SEC. 16. Section 19(j)(2) of the Child Nutrition Act of 1966 (42 U.S.C. 1788(j)(2)) is amended—

(1) by striking out "1984" in the first sentence and inserting in lieu thereof "1986"; and

(2) by striking out "$5,000,000" in the second sentence and inserting in lieu thereof "$8,000,000".

STUDY OF A UNIVERSAL SCHOOL LUNCH PROGRAM

SEC. 17. (a) The Secretary of Agriculture shall conduct a study to consider—

(1) the feasibility of making the school lunch program established under the National School Lunch Act (42 U.S.C. 1751 et seq.) a universal program for all children in the United States; and

(2) various methods of operating a self-financing school lunch program under such Act for all children in the United States, including reserving a separate source of revenue for any such program.

(b) The Secretary shall submit a report containing the results of the study required by subsection (a) to the Congress, together with any recommendations or proposals for legislation, no later than January 1, 1987.

● Mr. BOSCHWITZ. Mr. President, I rise today to file an amendment to the proposed National School Lunch and Child Nutrition Programs Reauthorization Act of 1984 (S. 2722). I am offering this amendment in an effort to get the ball rolling in the Senate on child nutrition issues. Legislation to reauthorize and make modest improvements in the child nutrition programs has passed the House twice, but the Senate has yet to consider any child nutrition legislation.

Most of the child nutrition programs are permanently authorized, School Lunch, School Breakfast, Child Care Food Programs, et cetera, but the five child nutrition programs that are not permanently authorized expire at the end of this fiscal year. The five expiring programs include: the Special Supplemental Food Program for Women, Infants, and Children [WIC]; the Summer Food Service Program; the Commodity Distribution Program; the Nutrition Education and Training [NET] Program; and, the funding for State Administrative Expenses [SAE].

If the Senate fails to act on reauthorization legislation, (S. 2722) the fate of these five programs will be left to a continuing resolution. Congress must reauthorize these programs in a timely manner to avoid disrupting their operations. It is difficult, if not impossible, to efficiently run a nutrition program if the program only has

authorization to operate for 6 months or 1 year. The programs need the stability that comes with the ability to make long-range plans.

My purpose in offering this amendment is to have a pragmatic, responsible compromise that will attract wide bipartisan support. With the help and encouragement from a variety of child nutrition advocates, I think we have come up with just that type of compromise. This amendment is a compromise between simply reauthorizing at current service levels the programs that need reauthorizing, as in S. 2722, and adding $303 million over those levels, as in the House version. This amendment would increase spending on the child nutrition programs by $139 million over current services. A large portion of the increase would go to adding eligible pregnant and breastfeeding women and their children to the Women, Infants, and Children [WIC] Program, $30 million. Most of the other provisions of the amendment are scaled down from the Huddleston-Cochran child nutrition bill, S. 1913, which had 52 cosponsors in the Senate. The provisions of the amendment include:

ESTIMATED FISCAL YEAR 1985 COST, $28 MILLION

First, adding 4 cents to the reimbursement for school breakfasts: This provision would increase the Federal subsidy for all breakfasts—free, reduced, and full paying—by 4 cents to improve the nutritional quality and content of breakfasts. A recent study showed that most school breakfasts were nutritionally deficient in vitamin A, vitamin B-6, and Iron. Almost 86 percent of the breakfasts served are to children from families below 130 percent poverty.

ESTIMATED FISCAL YEAR 1985 COST, $6 MILLION

Second, lowering the price of the reduced-price breakfast from 30 cents to 15 cents: The reduced-price breakfast is available to children from families with incomes from 130 to 185 percent of poverty. As part of the 1981 Reconciliation Act the reduced price breakfast price in this category was raised from 10 cents to 30 cents. Participation has dropped from 250,000 in fiscal year 1981 to 150,000 in fiscal year 1984. One reason given for the drop in participation was that the price went up too much. Participation in the free category has grown from 3.05 million in fiscal year 1981 to 3.07 million in fiscal year 1984. Lowering the price in the reduced price category will make the breakfasts more affordable.

ESTIMATED FISCAL YEAR 1985 COST, $40 MILLION

Third, lower the price of the reduced-price lunch from 40 cents to 30 cents: School lunch participation has dropped from 25.8 million in fiscal year 1981 to 23.3 million in fiscal year 1984, average monthly participation. Participation in the free category has dropped from 10.6 million to 10.5 million, in the reduced price category from 1.9 million to 1.6 million, and in the paid category from 13.3 million to 11.3 million. Some drop in participation is due to enrollment declines. However, the large decline in the reduced price category, 15.8 percent, is considered to be attributable to the increase in price. This provision makes the lunch more affordable, and more children from families in this income category will again buy school lunches.

ESTIMATED FISCAL YEAR 1985 COST, $21 MILLION

Fourth, add a snack to the Child Care Food Program [CCFP]: Currently, only two meals and one snack per child per day are reimbursable under this program. This provision would add one snack to make two meals and two snacks reimbursable per day. The reasoning is that many children are at day care centers or family day care homes for 8 or 10 hours a day and two meals and a snack are simply not enough meals for small children.

CCFP provides Federal funding for meals served to children in child care centers, Head Start programs, and family and group day care homes. For child care centers the reimbursement rates are based on family income, similar to the school lunch and school breakfast rates. Family day care homes receive a standard meal or snack reimbursement regardless of the family income of the child.

ESTIMATED FISCAL YEAR 1985 COST, $10 MILLION

Fifth, special milk in kindergarten: The Special Milk Program operates only in schools, child care centers, and summer camps that do not participate in any other Federal nutrition program. Each half-pint of milk served under the Special Milk Program is subsidized and that subsidy is annually adjusted for inflation.

Prior to 1981 Reconciliation the Special Milk Program could operate in schools and other facilities along with the school lunch or other Federal nutrition program.

Kindergarten children often attend school for only half-days and therefore, do not participate in any nutrition program. Reinstating the Special Milk Program in Kindergarten at least allows these children to receive a half-pint of milk.

ESTIMATED FISCAL YEAR 1985 COST, $1 MILLION

Sixth, income verification—Federal funding of direct costs: Beginning with the 1983-84 school year, the Department of Agriculture has required school districts to verify the incomes of 3 percent of their applicants for free and reduced price lunches, but not more than 3,000. The school districts have been concerned about this requirement and the costs involved. This provision would reimburse them for the direct costs of income verification.

ESTIMATED FISCAL YEAR 1985 COST, $3 MILLION

Seventh, add $3 million to nutrition education and training: The NET program provides grants to State education agencies for comprehensive nutrition education and training programs. States are to use the funds for nutrition education and training of teachers and food service personnel for developing classroom material and curricula on nutrition; and for teaching children about nutrition.

Since fiscal year 1982 the funding level of NET has been $5 million. Current law specifies that grants to States are to be the higher of 50 cents per child or $75,000. However, if appropriations are insufficient, the grant is ratably reduced.

Eighth, add to WIC authorization $30 million in fiscal year 1985 and $75 million in fiscal year 1986: This amendment would raise the authorization levels of WIC to $1.5 billion in fiscal year 1985 and $1.6 billion in fiscal year 1986. WIC is currently serving approximately 3 million women, infants and children. For each $50 million the program can serve approximately 100,000 people. So participation should increase 60,000 in fiscal year 1985 and an additional 90,000 in fiscal yer 1986.

ESTIMATED FISCAL YEAR 1985 COST, NONE

Ninth, Jeffords amendment: This amendment would require a food service company providing a la carte food service to serve free and reduced price meals and to meet the nutrition requirements of the school lunch meal pattern. Currently, competitive food service companies are not held to these same requirements.

ESTIMATED FISCAL YEAR 1985 COST, NONE

Tenth, Universal School Lunch Program Study: Study the feasibility of making the school lunch program self-financing. The American School Food Service Association would like to see free lunches available to everyone, but they would like it to be "self-financing."

ESTIMATED FISCAL YEAR 1985 COST, NONE

Eleventh, use of school facilities for elderly: This provision simply specifies that the local districts may allow elderly nutrition programs, including Congregate Dining and Meals on Wheels, to use their facilities, equipment, and personnel.

ESTIMATED FISCAL YEAR 1985 COST, NONE

Twelfth, automatic eligibility for free school lunch if AFDC eligible: This is merely a paperwork reduction amendment and makes children automatically eligible for free school lunches if they receive AFDC benefits. Also, the State must require that AFDC eligibility is below 130 percent poverty.

Some of my more liberal colleagues may say, this amendment does not go far enough. Some of my more conservative colleagues may say, this amendment goes too far. This is a compromise, it is a middle ground. It does what needs to be done for child nutrition as cost-effectively as possible. If we can set aside political rhetoric long enough to get the child nutrition programs reauthorized and make the improvements included in my amendment we will have carried out our responsibilities to those people who rely on these nutrition programs, and to all our constitutents who expect these programs to be authorized in an orderly fashion.

My only regret today, as I submit this amendment, it that when we go to conference on child nutrition this year we will not be sitting across the table from Chairman PERKINS. Congressman PERKINS dedicated his life to educating and feeding children and is a fine example to Senators and Congressman, Democrats and Republicans of a leader serving people.

Mr. President, the organizational endorsers of my amendment are:

American Camping Association.
American Federation of State, County and Municipal Employees.
American Public Health Association.
American School Food Service Association.
Bread for the World.
Camp Fire, Inc.
Center for Science in the Public Interest.
Center on Budget and Policy Priorities.
Child Care Food Program Sponsors Forum.
Child Welfare League.
Children's Defense Fund.
Children's Foundation, The.
Church of the Brethren (Washington Office).
Community Nutrition Institute.
Council of Chief State School Officers.
Food Research and Action Center.
Friends Committee on National Legislation.
Health U.S.A.
Interfaith Action for Economic Justice.
League of United Latin American Citizens.
League of Women Voters of the United States.
Lutheran Council of the USA (Office of Government Relations).
Mennonite Central Committee, U.S. Peace Section, Washington Office.
National Anti-Hunger Coalition.
National Association of Counties.
National Black Child Development Institute.
National Education Association.
National Farmers Union.
National Grange.
National Institute of Hispanic Children and Families, The.
National PTA, The.
National Rural Housing Coalition.
National Voice for Food and Health Policy.
Rural Coalition.
Society for Nutrition Education.
United Church of Christ (Office for Church in Society).
U.S. Conference of Mayors.
World Hunger Education Service.●

NOTICES OF HEARINGS

SUBCOMMITTEE ON FOREIGN AGRICULTURAL POLICY

Mr. BOSCHWITZ. Mr. President, I wish to announce that the Subcommittee on Foreign Agricultural Policy of the Committee on Agriculture, Nutrition, and Forestry has scheduled a hearing to examine the reasons for the increase in imports of Canadian pork and to consider an appropriate response by the United States to the increase.

The hearing, which was originally announced for Thursday, August 9, 1984 at 10 a.m. in room 328-A Russell Senate Office Building, has been rescheduled for 2 p.m. of the same day.

For further information please contact the Agriculture Committee staff at 224-0014 or 224-0017.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BAKER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Monday, August 6, at 2:30 p.m., to hold a hearing to consider the nominations of Brandon Grove, Jr., to be Ambassador to the Republic of Zaire, and Larry Williamson, to be Ambassador to the Gabonese Republic, to be followed by a hearing at 4:30 p.m., to consider the nominations of Leon Weil, Jr., to be Ambassador to the Kingdom of Nepal, and Anthony Quainton, to be Ambassador to the State of Kuwait.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

PRODUCT LIABILITY LEGAL COSTS

● Mr. KASTEN. Mr. President, sometimes the merits of a proposal can be made crystal clear by the tactics of those who oppose it. In that regard, I am entering in the RECORD solicitations that have been issued to defeat S. 44, the Uniform Product Liability Act. These have come from the trial lawyers who oppose the bill.

Data from the Rand Corp. show that currently lawyers are gathering far more in funds than victims who are injured by products in product liability actions. Currently, plaintiffs' lawyers take 41 cents from victims out of every dollar they receive. Defense clients fare no better—in fact, worse—58 cents is going to defense lawyers for every dollar going to a victim.

As evidenced by the many letters I and other Members of the Senate have received, there are a good number of responsible attorneys who support S. 44 in spite of the fact that it is not in their immediate economic interest. In that regard, recently a poll of the American Bar Association shows that a majority of members favor the enactment of Federal product liability law—the organization itself remains against it. The bill is as these documents suggest also opposed by the Association of Trial Lawyers of America. It is also opposed by the Defense Research Institute, the defense bar which says that this is a matter that can be left to the States.

S. 44 will reduce legal costs because it will establish clear, fair and balanced rules that will facilitate settlement. When cases are settled, contingent fees are reduced by over one-third. When cases are settled, defense lawyers run up far less billable hours. Estimates made before our committee indicate that the product liability bill can save as much as 30 to 35 percent in legal costs. It will prevent the briefing and rebriefing of issues. It will allow corporate counsel to have better control in managing cases—they will not be dependent upon the mercurial nature of 51 different sets of rules. It will allow injured parties to understand clearly what their rights are—the bill is clear and it can be understood by lay persons. It will allow lay persons to evaluate the value of legal services.

In light of these facts, the enclosed solicitations are curious, indeed.

First, it shows attorneys taking the guise of "helping" consumers. But it is interesting to note that they say that their efforts were "a primary reason we have beaten back national no-fault * * *" proposals. As members of the Senate will recall, national no-fault was strongly supported by the Consumer Federation of America and other consumer organizations. While some consumer groups have opposed S. 44, the point is that trial lawyers represent trial lawyers—not consumers.

This solicitation indicates that lawyers are "fighting for our lives in the U.S. Senate * * *." The solicitation further says that it is their "estimation, that the bill may lead to the death knell for tort practice in every field." Does this sound like protection for consumer rights?

Even more curious is the solicitation. It states that members will be calling upon other members "to contribute $40 a month—less than $1 a day—to support the efforts * * *." I even find problems with their math. With math like this, we perhaps could balance the budget.

It may be of interest to know the Association of Trial Lawyers of America have 53,000 members. If they each give $480 a year, they will have raised almost $25½ million to preserve the excessive legal costs that are burdening the product liability system. Oppo-

nents of S. 44 suggest that somehow the "moneyed interest" are behind the bill. However, neither the Product Liability Alliance nor the Coalition for Uniform Product Liability Law, the principal organizations supporting the bill, have political action committees.

S. 44 is a bill that should be judged on its merits, not rhetoric. It imposes liability on manufacturers and forces them to exercise "the care, intelligence, knowledge and experience that society requires for the protection of its own interest and the interest of others * * *." I am proud to support such a bill and a vehicle that will preserve more dollars in the hands of victims instead of attorneys.

The material follows:

ATTORNEYS CONGRESSIONAL CAMPAIGN TRUST,
Washington, DC, November 10, 1983.

Dear Colleague: ATLA needs your help to preserve the tort system!

Business groups, medical associations and insurance companies donate hugh sums of money to elect legislators who will support "tort reform." These groups give big dollars to political candidates who are sympathetic to their causes. We know we do not have to tell a member of the Association of Trial Lawyers of America what this means.

We are currently fighting for our lives in the United States Congress. Products safety repeal legislation (the Kasten bill), which codifies products law and pre-empts all state common law, is a clear and present danger. If we lose this fight, it is, in our estimation, the death knell for tort practice in every field. In addition, proposals to repeal diversity jurisdiction are again on the Congressional agenda.

ATLA has maintained political credibility in Washington through the Attorneys Congressional Campaign Trust—ACCT. It is a primary reason we have beaten back national no-fault, repeal of diversity jurisdiction, and the Montreal Protocols.

Political fund giving is an indispensable ingredient to the success of the Trial Bar in fighting anti-consumer legislation. ATLA must maintain political credibility or all is lost. You should, and must, support our, LEGAL, state political fund but you must also support the national political action fund for the Trial Bar—ACCT.

If we are to continue to seek to preserve the rights we have won for our clients in the courts and in the state legislature, if we are to continue to be respected as a substantial participant in the process by which our laws are made and our officials elected, we must be deemed first-rate in our recognition of the needs of candidates for political office.

On November 21st and 22nd, a colleague of yours will be calling you to ask you to contribute $40.00 a month—less than $1.00 a day—to support the efforts of ACCT. Payment can be made by Mastercard, Visa, American Express, personal check or bank draft.

$40 a month is a small price to pay compared to the loss in credibility we will suffer if ACCT fails to maintain its competitiveness with those who would destroy the adversary system.

Very truly yours,

JOSEPH P. O'DONNELL,
President, ATLA-New Jersey.

ASSOCIATION OF TRIAL LAWYERS OF AMERICA,
Washington, DC, April 13, 1984.

Dear ATLA Member: Your clients, the consumers of America, need your help on an urgent basis.

Responsible citizenship and a commitment to the American system of justice, including trial by jury, requires more than rhetoric. It requires your sharing with your state Political Action Committee and your national PAC, the Attorneys Congressional Campaign Trust (ACCT). ATLA cannot expect to have credibility in dealing with the Congress unless we are prepared to support and fight for those who support our clients' interests.

Our opponents in the private sector represent a coalition of insurance companies and major business interests. The latest example of their resources which have been brought to bear in the United States Congress, is the approval on March 27, 1984, by the Senate Commerce Committee of S. 44, a national products safety repeal proposal. This measure would pre-empt for the first time in our history state law, codify tort law, and wipe out decades of struggle by courts and juries to protect workers and product consumers. Strict liability in design and warning cases is abolished. Punitive damages is effectively abolished as well.

You are a member of the only effective consumer-oriented network that can defeat this and other items of pending legislation which threaten citizens' rights. We are right on the merits. We have the capacity through grass roots efforts to defeat this anti-consumer policy garbage. But you must demonstrate your commitment and responsibility by giving us an increased measure of effectiveness in dealing with the campaign process. This is an election year.

If you will fill out the enclosed card, and return it today in the enclosed self-addressed envelope, you will cast a vote for your clients. Please note that we are unable to accept contributions from corporate accounts.●

PROGRESS IN WAR ON CRIME

● Mr. LAXALT. Mr. President, one of the Reagan administration's greatest success stories over the past 4 years has been its record in fighting crime in America. Although criminal law is rightfully the jurisdiction of State and local law enforcement officials, I feel that the Reagan administration's efforts are directly responsible for much of the dramatic decline in criminal activity. In particular, I think Attorney General William French Smith should be highly commended for his leadership in this area.

Under the guidance of Attorney General Smith, the administration has taken a number of effective steps to strengthen Federal law enforcement, and thus facilitate State and local efforts.

The FBI released in April some remarkable statistics that demonstrate just how effective the Justice Department has been under Attorney General Smith. For the second consecutive year the Nation experienced a decrease in the number of crimes reported to law enforcement agencies, and the 1983 decline of 7 percent was the largest since 1960. Strikingly, between 1978 and 1980 Crime Index Offense rose 19 percent. The administration's establishment of the Law Enforcement Coordinating Committee program, a new National Center for State and Local Law Enforcement Training, and other major efforts toward training State and local officials in combating crime have been very effective.

Attorney General Smith's initiatives toward curbing the previously uncontroled flow of drugs across U.S. borders are also yielding impressive results. In creating the south Florida task force and 12 regional organized crime drug enforcement task forces, the national narcotics border interdiction system, and by utilizing the FBI in the fight against drug trafficking for the first time, the Nation is finally slowing the transportation of poisonous contrabands to its people. In fact, Federal officials have tripled the amount of cocaine seized just 1 short year ago, and heroine and marijuana seizures have increased almost 50 percent.

I would like to insert in the RECORD an article that recently appeared in the Hearst newspapers which gives overdue credit to Attorney General Smith and the achievements of the Reagan administration in combating crime.

The article follows:

ATTORNEY GENERAL CLAIMS PROGRESS IN WAR ON CRIME

(By Kingsbury Smith)

WASHINGTON.—With a 10 percent drop in criminal activities in 1983 marking the third year in a row crime has declined, Attorney General William French Smith says greater progress has been made in combating America's number one enemy in recent years than ever before in the history of the country.

"The results are really quite dramatic," said the soft-spoken former California lawyer and close personal friend of President Reagan.

The results he cited include the largest breakup in history of heroin and cocaine criminal networks.

As the result of tougher law enforcement, the number of criminals in federal prisons has increased 30 percent over the past three years. More leaders of organized crime have been arrested, convicted and put behind prison bars than ever before during a similar period of time.

Smith initiated and supervised some of the most profound and far-reaching changes in federal policy on criminal justice that have ever been made. All are intended to deter crime.

One of the first steps taken by the Reagan administration was to set up a Cabinet-level anti-crime group over which the attorney general presides. This led to the creation of 12 presidential task forces throughout the country to work with state and local authorities in curbing crime.

Under Smith's direction, the Federal Bureau of Investigation and all branches of the armed services were for the first time brought together to act jointly to combat

crime, especially as it related to the illegal drug traffic.

He also masterminded development of the President's Comprehensive Crime Control Act, which the Senate approved Feb. 2 by the overwhelmingly bipartisan vote of 91 to 1, now pending in the House of Representatives, where the various provisions are being handled separately rather than as a package.

Smith gives credit for what has been accomplished to Reagan, who launched the federal government's crusade against crime, and to state and local authorities who cooperated effectively with the government in that crusade.

"What we have done in the last three and a half years is to develop a comprehensive approach for dealing with organized crime and illegal drug traffic, which together are by far our number one crime problems," he said.

"The Cabinet level group, made up of Cabinet heads who have responsibility in the crime prevention area, was established to focus high level attention on this problem including presidential attention. It was the first time that has ever been done, except perhaps for one small exception during the Ford administration.

"We focused on organizational changes that were needed to come to grips with the crime problem. It seemed ironic to me that the FBI had never before been involved in dealing with the illegal drug traffic—our No. 1 crime problem. So for the first time we brought the FBI into this fight. We reorganized and strengthened, the Drug Enforcement Agency and consolidated it within the FBI. That was a major step forward.

"One of the first things I did was to appoint a U.S. attorney general's task force on violent crime." To assure the bipartisan nature of that task force, Smith persuaded Griffin Bell, his predecessor in the Carter administration, to co-chair it along with Illinois Republican Governor James Thompson, a former prosecutor.

"It was a highly successful group," Smith said. "They came up with some 64 recommendations. We have implemented well over two-thirds of them. Practical recommendations, they had two phases. One could be implemented without legislation. The other required legislation and additional resources. During the last year and a half we have increased our law enforcement budget by 57 percent. This has enabled us to more than double the resources we have thrown against the illegal drug traffic. We announced in Atlanta some months ago the largest cocaine breakup. It involved the arrest of top people in these drug networks. More recently, I announced another big network breakup in Boston."

Smith, 66, submitted his resignation to President Reagan last January in order to return to private law practice in California. He was persuaded to stay on pending Senate action on confirmation of presidential counsellor Edwin Meese III as his successor, or at least until after the November presidential elections.●

MONIQUE PANAGGIO—30 YEARS OF SERVICE TO RHODE ISLAND

● Mr. CHAFEE. Mr. President, an outstanding citizen of Rhode Island—Mrs. Monique M. Panaggio—was recently honored for her 30 years of dedicated service to the Preservation Society of Newport County.

The city of Newport and the State of Rhode Island have benefited greatly from Monique Panaggio's tremendous energy and creativity. Since 1954, she has served as public relations director of the Preservation Society, developing a successful promotional program which has helped to make Newport one of our Nation's leading historical, cultural, and recreational attractions.

Mrs. Panaggio was born in Versailles, France, and came to the United States in 1945. After working as a journalist for the Worcester, MA, Telegram she served as executive secretary of the Newport Publicity Commission. One of her first projects was a centennial program commemorating the achievements of Comdr. Matthew Perry, USN, a Rhode Islander whose expedition to Japan opened the ports of that country to world trade.

Visitors from throughout the world came to Newport in 1955 for an observance marking the 175th annivesary of the arrival in Newport in 1780 of the Count de Rochambeau with 6,000 French soldiers which led to the victory at Yorktown. The success of this elaborate event greatly enhanced the fundraising capabilities of the Preservation Society and generated tremendous enthusiam for other activities.

When Monique Panaggio assumed her duties in 1954, the Preservation Society of Newport County owned one historic building whose annual visitor attendance was about 35,000. Today the Society owns and manages six Newport mansions—the Breakers, Marble House, Rosecliff, the Elms, Chateau-Sur-Mer, and Kingscote. It also owns Green Animals—one of the Nation's top three topiary gardens, and other properties including a public park.

Monique Panaggio's promotional talents have helped make the society the operator of Rhode Island's foremost tourist attraction. Last year, these properties attracted visitors from all over the world, accounting for 824,000 admissions. The society's activities have provided a significant boost for Rhode Island's economy. The society has also contributed immeasurably to wider appreciation for Rhode Island's history and pride in its heritage.

Rhode Island has been enriched by Monique Panaggio's leadership in other areas as well. She was appointed by Gov. J. Joseph Garrahy to serve on the women's committee of the Rhode Island Bicentennial Commission and has served as president of the Newport chapter of Alliance Francaise. Mrs. Panaggio has served as a member of the board of directors of the Automobile Club of Rhode Island and is a member of the Travel Industry Association of America and the Rhode Island Press Association.

Mrs. Panaggio serves as president of Christmas in Newport, a monthlong series of noncommercial programs which is one of the State's most eagerly awaited holiday observances. She took an active role in the State of Rhode Island's efforts to establish Fort Adams State Park in Newport.

The 30th anniversary of Mrs. Panaggio's service to the Preservation Society coincides with her 40th wedding anniversary. Her husband, Leonard J. Panaggio, was appointed the first director of Rhode Island's state tourist promotion division in 1952. Mr. Panaggio held this position until his retirement in March 1983. He served with tremendous distinction for the longest term of any State travel director in the Nation. Leonard Panaggio's efforts have helped draw visitors from throughout the world to our State's rich historical and scenic attractions.

Leonard and Monique Panaggio have earned the respect and friendship of countless citizens for their imagination, drive, and deep commitment to community service. I join with all Rhode Islanders in saluting them for their many fine accomplishments, and extending best wishes for continued success in all their endeavors.●

NATIONAL HISTORICALLY BLACK COLLEGES WEEK

● Mr. D'AMATO. Mr. President, I rise today in recognition of the historically black colleges. These fine institutions of higher education deserve special recognition. Therefore, I am pleased to join in cosponsoring National Historically Black Colleges Week.

One hundred and three historically black colleges and universities provide quality education essential for the continued advancement of our citizenry. These colleges and universities play an important role in preparing our youth for a high technology society. Historically black colleges and universities not only have a rich heritage, but have played a significant role in American history.

Many students have benefited from these institutions of higher education. Historically black colleges have the potential to continue to provide necessary educational programs so that more students will reach their fullest potential. Therefore, it is appropriate, Mr. President, that we designate the week of September 23, 1984, as National Historically Black Colleges Week.

Thank you, Mr. President.●

SENATE SCHEDULE

Mr. LEVIN. Is the majority leader in a position to tell us what we can expect to be working on tomorrow?

Mr. BAKER. Yes, Mr. President, I will. Mr. President, we have still not been able to clear the supplemental appropriations bill for tomorrow. I am hopeful that we can do that. If we cannot, it would be the intention of

the leadership on this side to ask us to turn to the supplemental appropriations bill tomorrow. First, of course, would be a waiver under the Budget Act to reach that measure. But assuming we do, we would be on that measure tomorrow. If we do not, we continue on the debate on the motion to waive the budget provisions of the Budget Act with respect to the farm bill.

Mr. President, cloture has been filed. So we will have a cloture vote on Wednesday on the motion. But perhaps it would be useful to say, as I previously have said to the minority leader privately, that it is my hope that we could finish the agriculture bill, any other appropriation bills that we can, the supplemental apporpriations bill, and frankly I think that is about all. There may be other matters that we can reach that will not take much time. But our principal responsibility this week in my judgment is to do the supplemental and the agriculture bill, and that will be a good week's work.

Mr. LEVIN. I understand that there is definitely to be cleared a small business Federal procurement competition bill, S. 2489. My question is this: Would it be possible for the leader to see if that could be cleared this evening, if it is going to be cleared at all?

Mr. BAKER. Yes. Mr. President, I would be glad to. I am advised now that we have a unanimous-consent agreement in respect to that measure relating to time. If the minority leader is prepared to do so, I will put that request in a moment. But, yes, Mr. President. We thought we might clear that today, but it did not work out. So may I say to my friend from Michigan that if we can get this time agreement, I am sure we can find time tomorrow to deal with that measure.

Mr. LEVIN. My question to the leader is: Would it be possible for the leader to see if that could be cleared today rather than tomorrow so we could know today whether or not that is going to be coming up tomorrow?

Mr. BAKER. If the Senator will let me confer with the minority leader, maybe I can give you some more information. In the meantime, Mr. President, I suggest the absence of a quorum.

The PRESIDIENG OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. FORD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THREE OLYMPIC GOLDS FOR MARY T. MEAGHER

Mr. FORD. Mr. President, Kentuckians are beaming with pride today over the Olympic performance of Mary T. Meagher, a 19-year-old swimmer from Louisville.

Miss Meagher claimed 3 of the 21 gold medals won by U.S. swimmers, winning the gold in the 100-meter butterfly, 200-meter butterfly and the 400-meter medley relay. In the 200-meter butterfly, she left the starting blocks like someone who had been freed from jail, touching home with the third-fastest time in history for men or women. While that time fell a second short of Miss Meagher's own world record, she will still retire as the only woman ever to break the 59-second barrier.

Miss Meagher, one of many American athletes disappointed by the 1980 Olympic boycott, also helped bring the American team its 1½ second victory over runnerup West Germany in the 400-meter medley relay. Her incredible 58-second leg in the earlier relay event was the fastest butterfly relay leg in history.

I wish to congratulate Miss Meagher, a sophomore at the University of California at Berkeley, and her parents, Mr. and Mrs. James L. Meagher of Louisville. She showed true Olympic spirit, giving the United States her best in these Olympic events.

Mr. President, I ask unanimous consent that an article by Billy Reed, entitled "For Mary T., It's a Merry Three Golds," which appeared in the Courier-Journal of August 6, 1984, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From the Courier-Journal, Aug. 6, 1984]

FOR MARY T., IT'S A MERRY THREE GOLDS

(By Billy Reed)

LOS ANGELES.—On the day that she would go after her third gold medal of the Olympic Games, Mary T. Meagher woke up feeling sick at her stomach and "like I hadn't gotten any sleep at all."

She had eaten late on Friday in the wake of her terrific leg in the 4 x 100 medley, then tried to sleep. But she kept waking up because of sounds and whispers in her dormitory suite.

"I guess it could have been nerves," she said last night. "Other people were coming in and out, and I'd wake up every time."

A two-hour afternoon nap helped, but she still didn't feel quite right even as she waited to be called for the 200-meter butterfly—an event in which she has reigned supreme since 1979.

The 19-year-old Louisvillian knew she was thinking too much about her last race at the highest level, so she got teammate Carrie Steinsfeifer to talk "just to take my mind off it."

That helped, as did the last-minute laps that she swam in the diving pool between the time she was introduced to the standing-room-only crowd and the moment when the field of eight was called to get on the starting blocks.

"I don't think they would have started without me," Meagher would say later, smiling sheepishly.

And, of course, they wouldn't have because everybody at the pool, her competitors included, knew that this was her show.

Let the record show that, in the final big race of her illustrious career, Mary Terstegge Meagher went out the way a champion should.

After 150 meters, she was so far ahead that it was only a question of margin and time. As she brought it home, against a ringing backdrop of cheers and a sea of waving American flags, she was where she belonged—in front, all alone, in a class apart.

Unchallenged, she nevertheless touched home in 2:06.90, which smashed the Olympic record of 2:10.44 set by Ines Geissler of West Germany at the 1980 Games in Moscow.

And then, for the third time in three days, she got to climb the victory stand, bend to let a gold medal be put around her neck, and sing along while they played the national anthem and ran up the Stars and Stripes.

Until now, no Kentuckian had ever won more than a single gold medal, and the last to win one in an individual event was boxer named Cassius M. Clay, the 1960 Olympic light-heavyweight champion who went on to earn a measure of fame under the name of Muhammed Ali.

Ali's gold medal now is somewhere at the bottom of the Ohio River, where he heaved it upon being refused service at a Louisville restaurant shortly after he returned from the Games in Rome.

Last night, asked by an ABC interviewer what she planned to do with her three golds, Mary T. didn't forget the folks at home.

"I'll put them up for a while in the family room of my parents' home in Louisville," she said, "so that everybody who has helped me and loved me can come see them and share in them."

The line ought to stretch from the Meagher home in St. Matthews all the way down to the Lakeside Swim Club and around the Sacred Heart. Why, it would be that long if only her immediate family showed up. She's ninth in a line of 10 children.

One of her teammates in Friday night's relay, Theresa Andrews, comes from a family in which she has nine brothers and one sister.

Asked about their families, Meagher tried to give a diplomatic answer.

"We come from strong religious backgrounds," she said.

"Good Catholic families," Andrews interjected. "Go ahead, Mary, say it, say it."

Of all the U.S. swimmers, Meagher seemed one of the most popular. Her every appearance drew loud, enthusiastic ovations to which she responded with big smiles and waves of her arms.

However, the outward show of confidence was only a think veneer on a bundle of nerves. As good as she is, and as much as she has accomplished. Meagher's a natural-born worrier whose ego is fragile, at best.

Her moments of glory were postponed four years by former President Jimmy Carter's decision to boycott the 1980 Games in Moscow to protest the Russian invasion of Afghanistan.

So, while Ines Geissier of West Germany was setting an Olympic record in the 200-

meter butterfly, Meagher was at home, watching on TV.

For Meagher, that was the beginning of a long four years in which she set world records, suffered a shattering 1982 loss to the East Germans, gained weight and lost interest, and finally began the comeback that culminated this week.

"For those of us who have been around since 1980," she said last night, "we're realizing more and more how much the boycott hurt us—and how much we missed out on. Gosh, it's been so long since we've had a top-notch international meet where the whole world was watching us."

Inevitably, she was asked about the absence of several of the world's best swimmers—most notably the East Germans and the Russians—at these Olympics.

Earlier in the week, she had said that she not only wanted to win gold medals, but to turn in times that would leave no question about her superiority in the world.

That she did, in every race.

On Thursday, she set the Olympic record at 100 meters in qualifying before winning the gold in a slower time that left her slightly disappointed.

Then, in Friday's relay, she single-handledly pulled the U.S. team from a slight deficit to a huge lead with a 58.04 butterfly leg that was the fastest in history.

The end of the message came last night: Forget the East Germans, because Madame Butterfly still comes from Louisville, Ky.

Still, unlike all, Meagher couldn't quite bring herself to state flatly that she would have dominated, no matter what.

"I can see it going both ways," Meagher said. "It could be that I would have felt more pressure and been more scared and nervous. But on the other hand, if somebody had been next to me and pushing me, maybe I would have concentrated less on the pain and swum even faster."

Indeed, her time last night was only a second off her world record. She remembered telling herself at one point in the race to "pick it up, but then she also told herself to take care to "not go flat in the water."

As difficult as it may be for casual observers to understand, times mean about as much to swimmers as medals.

But don't get the idea that Mary T. was disappointed. Far from it. During one TV interview, she spontaneously grabbed the gold dangling around her neck and kissed it.

Now, her work done, she will get to enjoy the rest of the games in the company of her teammates, family and friends.

Then, after the closing ceremonies next Sunday, she will join America's other medal winners on a triumphant tour that will begin with President Reagan in Los Angeles and go to New York, Washington, Orlando, New Orleans and Dallas.

After that, finally, she'll bring the medals home to Louisville, where she'll spend a week before enrolling as a sophomore at the University of California-Berkeley.

"I'll keep swimming until my college eligibility runs out, but it'll be just for fun," she said last night. "This was the last all-out effort, mentally, that I'll ever put into swimming."

Now, smiling, she didn't look sick at all. The insomnia was forgotten, So, too, were all the butterflies—the ones in the pool, as well as those in her stomach.

TORI TREES, KENTUCKY OLYMPIAN

Mr. FORD. Mr. President, I wish today to congratulate 19-year-old Tori Trees, a Kentuckian who placed fifth in the women's 200-meter backstroke final of the 1984 Olympics.

Miss Trees, a graduate of Atherton High School in Louisville, KY, was one of only two Americans to qualify for this event. She has had a distinguished swimming career since she first began swimming at age 8 at the Lakeside Swim Club in her hometown. This year she placed second in two events of the NCAA swimming championship as she swam for the University of Texas. Those events were the 100-meter and 200-meter backstrokes.

Miss Trees and her parents, Mr. and Mrs. William Trees, of Louisville, are to be commended following this outstanding Olympic performance.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COCHRAN). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

TIME LIMITATION AGREEMENT—S. 2489

Mr. BAKER. Mr. President, I have before me now a unanimous consent time agreement that appears to be cleared all around.

I ask unanimous consent that when the Senate turns to the consideration of calendar order No. 975, S. 2489, the Small Business Act, it be considered under the following time agreement: 30 minutes on the bill to be qually divided between the Senator from Connecticut [Mr. WEICKER] and the Senator from Arkansas [Mr. BUMPERS], or their designees; 30 minutes on the bill to be equally divided between the Senator from Texas [Mr. TOWER] and the Senator from Georgia [Mr. NUNN], or their designees; 30 minutes on the following amendments, that be the only amendments in order. To wit:

An amendment to be offered by the Senator from Ohio [Mr. METZENBAUM] requiring a GAO report on the extent this bill increases the opportunity for small business access to government contracts;

An amendment to be offered by the Senator from Michigan [Mr. LEVIN], to enhance the cost-effective acquisition of spare parts by the Department of Defense; title X of United States Code and section 15 of the small business biil;

An amendment to be offered by the Senator from Georgia [Mr. NUNN], regarding tenure of program managers in major defense weapon systems;

An amendment to be offered by the Senator from West Virginia [Mr. BYRD], to establish an Office of Competition Advocates General within the Departments of Defense and NASA as passed by the Senate;

An amendment to be offered by the Senator from New Mexico [Mr. BINGAMAN], to require a plan for improving DOD computer capability regarding spare parts procurement data;

A Weicker-Dixon amendment conforming the bill to the relevant provisions of the DOD bill as passed by the Senate; and

Finally, that no motions to recommit with instructions, or refer with instructions be in order.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Reserving the right to object, Mr. President.

Mr. BAKER. Mr. President, if the Senator will withdraw his reservation, I shall amend the request.

Mr. BYRD. Mr. President, I withdraw my reserevation for the moment.

Mr. BAKER. I thank the Senator.

Mr. President, I further ask unanimous consent that if the Senate turns to the consideration of this measure tomorrow, it not do so prior to the hour of 2 p.m.

Mr. BYRD. Mr. President, reserving the right to object.

Mr. BAKER. Mr. President, the request should be modified further as follows: the Weicker-Dixon amendment containing technical and conforming amendments to the bill to the relevant provisions of the DOD bill as passed by the Senate. That is the modification.

The PRESIDING OFFICER. Is there objection?

Mr. BYRD. Mr. President, reserving the right to object, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The text of the agreement follows:

Ordered, That when the Senate proceeds to the consideration of S. 2489 (Order No. 975), a bill to amend the Small Business Act to enhance competition in Government procurement, but not before the hour of 2 p.m. on Tuesday, August 7, 1984, that the committee amendments be agreed to en bloc and considered as original text, and that the only amendments to be in order are the following first degree amendments, on which there shall be 30 minutes each:

Metzenbaum amendment, relative to a GAO report on the extent this bill increases the opportunity for small business access to government contracts

Levin amendment, relative to enhancing the cost effective acquisition of spare parts by the Department of Defense (Title X of U. S. Code and Sec. 15 of the Small Business bill)

Nunn amendment, relative to tenure of program managers in major defense weapon systems

Byrd amendment, relative to establishing an office of competition advocates general within the Departments of Defense and NASA (as passed by the Senate)

Bingaman amendment, relative to requiring a plan for improving DOD computer capability regarding spare parts procurement data

Weicker-Dixon amendment, technical and conforming the bill to the relevant provisions of the DOD bill as passed by the Senate

Ordered further, That no motion to recommit with instructions or to refer with instructions be in order.

Ordered further, That on the question of final passage of the bill, debate thereon shall be limited to 1 hour, with 30 minutes to be equally divided and controlled by the Senator from Connecticut (Mr. WEICKER) and the Senator from Arkansas (Mr. BUMPERS), or their designees, and with 30 minutes to be equally divided and controlled by the Senator from Texas (Mr. TOWER) and the Senator from Georgia (Mr. NUNN), or their designees. (Aug. 6, 1984)

UNANIMOUS-CONSENT AGREEMENT—SMALL BUSINESS SPARE PARTS ACT

Mr. BAKER. Mr. President, I am advised that there are two sets of committees' amendments to the small business spare parts bill which should be qualified under the unanimous-consent order. I will put the following additional request in respect to that bill.

Mr. President, I also ask unanimous consent that all committee amendments to the bill be adopted and considered as original text for the purpose of further amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDERS FOR TUESDAY

Mr. BAKER. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until 10:30 a.m. tomorrow, and that on tomorrow, after the recognition of the two leaders under the standing order, special orders be awarded in favor of two Senators in this order, to wit: Senators GARN and PROXMIRE, for 15 minutes each, to be followed by a period for the transaction of routine morning business until 12 noon, with statements therein limited to 5 minutes each.

I further ask unanimous consent, Mr. President, that at 12 noon the Senate stand in recess until 2 p.m.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

ORDER OF PROCEDURE TOMORROW

Mr. BAKER. Mr. President, as I indicated earlier, it is the hope of the leadership that on tomorrow we may be able to reach the supplemental appropriations bill, notwithstanding the provisions of the 3-day rule. That, of course, will require a waiver of the pertinent sections of the Budget Act. In any event, Mr. President, I expect the Senate will take that measure up this week—if not tomorrow, then on Wednesday. If we are not able to reach the supplemental appropriations bill tomorrow, Mr. President, it would be the intention of the leadership on this side to continue the debate on the motion to waive the provisions of the Budget Act with respect to the agriculture appropriations bill.

It is anticipated, Mr. President, given other factors and circumstances, we will be able to reach the so-called small business spare parts bill on or after 2 p.m. tomorrow, in connection with which there is a limitation of time for debate according to the order previously entered.

Mr. BYRD. Mr. President, the distinguished majority leader has indicated that the bill, S. 2489, the Small Business Act, will be brought up not before 2 p.m. tomorrow, I believe.

Mr. BAKER. Yes, Mr. President.

Mr. BYRD. Is it the position of the majority leader that he intends to finish that bill tomorrow?

Mr. BAKER. Yes, Mr. President, it is.

Mr. BYRD. I thank the distinguished majority leader.

HUNGER RELIEF ACT OF 1984

Mr. BYRD. Mr. President, I understand that a House message on H.R. 5151 is at the desk.

The PRESIDING OFFICER. The Senator is correct.

Mr. BYRD. That is cited as the "Hunger Relief Act of 1984."

Mr. President, on behalf of Mr. KENNEDY, I ask that the bill be read the first time.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 5151) to alleviate hunger in the United States by strengthening Federal nutrition programs.

Mr. BYRD. Mr. President, I ask that the bill be read the second time.

The PRESIDING OFFICER. Is there objection?

Mr. BAKER. Mr. President, I object to further proceedings on the bill on this day.

The PRESIDING OFFICER. Objection is heard.

EXTENSION OF TIME FOR ROUTINE MORNING BUSINESS

Mr. BAKER. Mr. President, I have a few items in the folder today that appear to be available for action by unanimous consent, and I will run through them rapidly, since we are going to run out of time.

I ask unanimous consent that the time for the transaction of routine morning business be extended to not later than 6:30 p.m., under the same terms and conditions.

The PRESIDING OFFICER. Without objection, it is so ordered.

S. CON. RES. 132 PLACED ON THE CALENDAR

Mr. BAKER. Mr. President, I ask unanimous consent that the Mitchell-Cohen resolution, Senate Concurrent Resolution 132, relating to Olympic gold medals, be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

SMALL BUSINESS DEVELOPMENT ACT AMENDMENTS—CONFERENCE REPORT

Mr. BAKER. Mr. President, I submit a report of the committee of conference on S. 1429 and ask for its immediate consideration.

The PRESIDING OFFICER. The report will be stated.

The assistant legislative clerk read as follows:

The committee of conference on the disagreeing votes of the two Houses on the amendment to the bill (S. 1429) to amend the Small Business Development Act of 1980, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses this report, signed by all the conferees.

The PRESIDING OFFICER. Without objection, the Senate will proceed to the consideration of the conference report.

(The conference report will be printed in the House proceedings of the RECORD.)

Mr. WEICKER. Mr. President, I am delighted that the Senate is considering the conference report on S. 1429, the Small Business Development Improvement Act of 1984. This bill would extend and strengthen the Small Business Administration's [SBA] Small Business Development Center [SBDC] Program which currently is due to expire on January 1, 1985. First, I would like to offer my sincere thanks to Senator BUMPERS, the ranking minority member of the Small Business Committee for his assistance and cooperation in formulating this compromise bill and to Senator NUNN, whose interest and involvement in this program over the years has been a major force in the development of this legislation. I would also like to thank Congressman MITCHELL, chairman of the House Small Business Committee, for his leadership and direction in moving this bill through the House. I am most appreciative of their efforts.

Mr. President, the SBDC program is designed to provide local management assistance and technical advice to small businesses. Currently, there are SBDC's in 32 States across the country and in the District of Columbia,

which draw on the resources of the private and public sectors, local business organizations and universities to help small business in their areas. Last week conferees from the Senate and House met and resolved several outstanding issues which in my view will help strengthen the Small Business Development Center Program.

Mr. President, the bill we are considering here today represents months of careful review and examination by both Houses. The Senate passed S. 1429 on November 16, 1983, after holding three hearings on the program and conducting two independent evaluations. The House also has held several hearings on this program and also passed a bill on May 14, 1984, to extend and make certain modifications in the SBDC Program.

Mr. President, for any of my colleagues who wish a more detailed history of this legislation, I would refer them to the committee report on S. 1429, which describes the development of the SBDC Program since its inception as a pilot program of the SBA in 1976. I think it important at this point, however, to review a little of this history.

In response to studies demonstrating that many business failures were caused by a small business owners' fundamental lack of management and technical skills, SBA in 1976 sought to find new ways of providing needed management assistance and counseling to small firms. Eight centers, based at universities, were funded on a pilot basis.

Although the initial pilot centers had many flaws, the Small Business Committee believed that the underlying concept of using private business and educational resources to deliver management assistance was a good one.

In 1979, a bill formally authorizing the SBDC Program and setting up a statutory framework for the operation and management of the centers was introduced, and in 1980, was enacted into law as part of Public Law 96-302. This law included a provision to sunset the program on October 1, 1984. This sunset date was further extended to January 1, 1985, with the enactment of Public Law 98-177 on November 29, 1983. The purpose of this 3-month extension was to provide Congress time enough to complete its study of the program and allow the SBDC Program to continue without funding interruptions.

Mr. President, since 1980, when Public Law 96-302 went into effect, the program has grown considerably. As I noted, SBDC's are located in 32 States plus the District of Columbia, and SBA fully expects that, with the reauthorization of this program, it will continue to grow and operate in most of the 50 States within 5 years. The committee has taken a long and careful look at this program. Based on the performance of the program to date, I believe wholeheartedly that the SBDC Program should continue to enjoy the support of Congress. As in any new program, it has had its problems. However, its track record shows clearly that this delivery system does provide valuable advice and assistance to small firms.

Last week in conference with the House, additional modifications to the program were agreed to which, in my view, correct some of the problems that have surfaced during the operation of this program. These modifications to the program will permit existing and future SBDC's to provide even more efficient and effective counseling and management assistance to the small businesses in the communities they serve.

A detailed explanation of all of the provisions agreed to is contained in the conference report, but let me highlight the major points agreed to in conference.

NEW FEDERAL MATCH REQUIREMENT

Current statutory language authorizing the administration to award financial assistance to eligible recipients for the establishment and operation of small business development centers requires each recipient to provide matching funds. Specifically, the law requires the recipient to provide matching funds derived exclusively from non-Federal sources, in an amount equal to the amount to be awarded by the administration. The matching requirement specifies that no more than 50 percent of the recipient's match is permitted to be in the form of inkind contributions or indirect costs. This statutory limitation on the extent to which indirect costs and inkind contributions can be used for the match leaves unstated the composition of the other 50 percent of the match, though it was understood to be cash.

The conference agreement clearly states that the other 50 percent of the required match would be in the form of an upfront hard cash contribution from non-Federal sources. The statutory language adopted by the conferees amends the existing match requirements by spelling out that 50 percent of the non-Federal match must be in the form of cash. To answer concerns that some SBDC's might not be able to meet this upfront cash requirement on an immediate basis, the conference agreement provided for a transition period to allow individual centers and State legislatures, when and where appropriate, to make the necessary adjustments in their budget procedures. This transition period would work as follows:

In the 32 States and the District of Columbia in which the SBDC's exist today, the cash requirement is effective for grants for performance commencing on or after October 1, 1987.

For the other 18 States who have yet to enter this program, the cash match requirement would be required for grants for performance commencing on or after October 1, 1988, if the applicant is located in a State which receives its initial grant for performance commencing on or after August 1, 1984 and prior to October 1, 1986. The cash match is required for grants for performance commencing on or after October 1, 1986, if the applicant is located in a State which receives its initial grant for performance commencing on or after October 1, 1986.

SBDC AUTHORIZATION

Current law authorizes the appropriation of "such sums as may be necessary" to provide funding for SBDC's based on a formula comparing population to be served to the total U.S. population, with a program cap of $65 million. The 1984 appropriation for the SBDC Program is $25 million. The State, Justice, Commerce appropriations conference report for fiscal year 1985 agreed to a $28.5 million level for fiscal year 1985.

The Senate bill as passed, provided for specific authorization ceilings for the SBDC Program in each of the next 3 fiscal years.

Under the conference agreement, the Senate language for fiscal year 1985 was adopted, providing for a $30 million program level. For fiscal year 1986 and every year thereafter, however, in order to accommodate anticipated, gradual growth in the program without unduly imposing restrictive program levels, the conference agreement authorizes such sums as may be necessary to be appropriated solely to operate the SBDC Program. It is important to note that the statute still contains as part of the allocation funding formula an overall program cap of $65 million. This language is consistent with current law.

PEER REVIEW

Current law provides for a one-time evaluation of the SBDC Program, with a report to be submitted to the Congress. That evaluation was undertaken and completed in 1983. The required report was submitted to Congress and used by the committee as part of its overall examination of the SBDC Program.

In order to ensure that this program and individual centers continue to be monitored, the conference agreement requires that SBA develop and implement a proposal for an onsite evaluation of each federally funded SBDC. This proposal must be completed by SBA within 6 months of enactment of this legislation. The evaluation process will be conducted every 2 years and provides for the participation of representatives of at least one other SBDC in each of the reviews.

SUNSET OF THE SBDC PROGRAM

Under existing law, the SBDC Program is due to expire or "sunset" on January 1, 1985. It is the strong belief of members of both the Senate and the House Small Business Committees that the SBDC Program is a valuable resource and asset to the small business community and should be made permanent. However, the conferees also agree, and I join with them in this assessment, that in order to ensure the continued success of the program, it is necessary that Congress continue to effectively monitor and examine through the oversight process the growing network of SBDC's throughout the country. Therefore, the conference agreement provides for a sunset date of October 1, 1990. This, we believe provides a means for Members of the Senate and House to revisit the SBDC Program to review its growth and development, and to make any programmatic changes if they are needed.

Mr. President, I believe the SBDC Program has proven itself as an effective management assistance program for small business. The Senate reaffirmed this fact last year when it voted unanimously to pass S. 1429 in its original form. I believe that the changes which have been made in the conference report represent an acceptable compromise between the Senate and House bills and will give the program a solid statutory base to build upon. I urge my colleagues to accept this conference report.

Mr. BUMPERS. Mr. President, I rise in support of the conference report on S. 1429, the Small Business Development Center Improvement Act of 1984. This conference report will make a number of improvements in the operation of this important management assistance program in the Small Business Administration. The bill will also provide for an extension of the program until October 1, 1990. I urge my colleagues to support the conference report.

As the ranking Democratic member of the Senate Small Business Committee, I know all too well that one of the most frequently cited reasons for small business failure is the lack of management capability. Even with its extensive field network, Congress was concerned about the ability of the Small Business Administration's employees to meet effectively and efficiently the small business community's requirements for management assistance. Under the outstanding leadership of the former chairman of the Senate Small Business Committee, Gaylord Nelson, and my predecessor as the ranking Democratic member of the Committee [SAM NUNN], in 1980 the Congress built upon an administrative effort undertaken by SBA in 1976 and legislatively created a pilot small business development center program. During the 4 years that the legislatively based pilot program has been in existence, 32 States and the District of Columbia have met the statutory criteria for eligibility and are actively participating in the program. An additional two States will probably be brought into the program before the end of this Federal fiscal year. I have every reason to expect that an additional five or more States will come into the program within the next year, as well. It is evident from the number of applicants coming into SBA that the States and their small business leaders recognize the value of this program and its capability for success.

In the original legislation establishing this program, Congress provided for a sunset of this program on October 1, 1984. Subsequently, in Public Law 98-177, enacted on November 29, 1983, Congress extended that sunset deadline until January 1, 1985. This legislation will further extend the sunset date on this valuable program until January 1, 1990. While we have agreed to a further sunset date, however, I want to highlight the statement of managers in the conference report on this point:

(T)he conferees acknowledge that the pilot SBDC program enacted in 1980 has been very successful in providing management assistance to small business (and) a further sunset date was included only to ensure that the Congress, the Small Business Administration and the SBDC program managers would review the growth and development of the SBDC program.

As designed by Congress, the Small Business Development Center Program is to provide comprehensive management and technical assistance to the small business community. The SBDC's should bring together the resources of government at all levels with the resources of the university systems and the private sector. There has been an extensive oversight of the program and hearings by the Senate Small Business Committee during the past 2 years. There have been periodic program and financial audits undertaken by the Small Business Administration. The statutorily mandated program evaluation was undertaken by a private contractor during 1982 and did an extensive evaluation of the centers then in operation. Each of these has proven that the SBDC Program is meeting the congressional intent to establish a cooperative program that will provide quality management assistance to small business.

Mr. President, the conference agreement does not vary significantly from the program being operated in current law. Through a phase-in of a new definition of the cash-match requirement, the conferees have taken action to strengthen the financial position of each SBDC, ensure a greater level of commitment and awareness of the operation of the SBDC in each State, and insist that this program is truly a one-for-one match. We have taken action to ensure that the statute is more explicit on the recognition that this program requires both full-time SBDC staff attention and convenient service delivery to its clients. We have directed the Small Business Administration to develop and implement a program for a biannual, onsite review of each SBDC, and directed that the agency include the participation of at least one outside SBDC as part of each review.

Mr. President, from my perspective on the Senate Small Business Committee, this program has proven that the Small Business Administration, in cooperation with the universities of our Nation, the private sector management consultants and other experts, can help fill that management void. As the senior Senator from the State of Arkansas, I also know first hand how this program has benefited the small businesses of my State.

The Arkansas Small Business Development Center program was initiated in 1979. Today, under the leadership of the industrial research and extension center of the University of Arkansas, and a consortium of eight other Arkansas colleges and universities, the Arkansas SBDC network serves small businesses throughout my State through nine service units. In addition to the basic general business management services, the Arkansas SBDC also provides specialized services to small businesses wishing to export—through an international trade center working with the Arkansas Industrial Development Commission—and a capital formation advisory service.

Mr. President, our authorizing committee will continue to evaluate the effectiveness of this program and its implementation by the Small Business Administration. Our review to date indicates several areas of the program that need to be more carefully examined in the near future. However, we have unanimously reached the conclusion that the SBDC program is an effective means for providing necessary management assistance to small business.

I want to compliment the chairman of the Senate Small Business Committee [Senator WEICKER] and my colleague from Georgia [Senator NUNN] for their outstanding leadership in carefully reviewing this law, and bringing forward a package of legislative reforms that will have a significant and positive impact in improving the chances for small business success.

I urge my colleagues to support the conference report on S. 1429.

Mr. NUNN. Mr. President, I rise in support of the conference report on S. 1429, the Small Business Development Center Improvement Act of 1984 and urge its passage by the Senate. This

conference report will provide for the extension of the Small Business Development Center program created by Congress in 1980. During the past 4 years, the program has proven its value in providing management assistance to small business in an effective and efficient manner.

I am a strong supporter of the program, and have been directly involved in every legislative phase of its creation, growth, and extension. From our reviews, we know that a properly functioning, properly managed, and properly funded SBDC program has proven that it can make a difference in assisting in the successful operation of many of this Nation's small business concerns. However, our review has also demonstrated that there are limitations to what this program can and should do.

In these times of difficult economic circumstances, small businesses in particular are still failing at record rates. Empirical evidence shows that the lack of management expertise is one of the most common problems facing the small business owner. In August 1982, in a private survey undertaken by Safeguard Business Systems—a large business—jointly with the University of Texas at Austin, more than half of the businesses with 10 or fewer employees surveyed indicated that business failures resulted from internal causes, and of that group 30 percent listed "lack of management expertise" as the primary cause.

In 1976, the Small Business Administration began its own program of small business development centers. Eight centers, including one in my own State of Georgia, were formed to determine the feasibility and effectiveness of increasing the reliance on the private sector for providing management assistance to small business.

In March 1977, I had the privilege of chairing the first hearing by the Senate Small Business Committee on legislation that was ultimately to become the Small Business Development Center Act of 1980. At that 1977 hearing, I noted that the Agricultural Cooperative Extension Service, created over 100 years ago, had proven that the combination of the private sector, the university community, the States, and the Federal Government can jointly make tremendous strides in increasing farm productivity. As I said then, and still firmly believe, the needs of the agriculture and small business communities are similar, and that agriculture program was worth duplicating for the small business sector.

In February 1983, in Georgia, I also chaired the first congressional oversight hearing on the implementation of the 1980 Small Business Development Center program. On June 8, 1983, I joined with Chairman WEICKER and six other members of the Senate Small Business Committee in introducing the legislation in the Senate (S. 1429) that proposed to make the SBDC program permanent. Throughout our committee's extensive review and oversight hearings, I raised four key questions about this program:

Is the Small Business Development Center program providing management assistance that would not otherwise be available to small business?

Is this program a cost-effective way of providing management assistance?

Has there been a sufficient test of the pilot program so that Congress is capable of fully and fairly evaluating the performance of the program? and

Are there changes in law that Congress should make that would increase the potential for success of this program?

With the legislative work that has been done by both the Senate and House Small Business Committees, I feel confident in telling my colleagues today that with the adoption of this conference report, we can confidently answer each of those four questions with a strong "yes."

Mr. President, the conference report pending before the Senate will strengthen the SBDC program. It will clarify the requirements for eligibility and strengthen the partnership between the Federal Government, the States, the university community, and the private sector in providing management assistance to small business. We have provided for another sunset date for the SBDC program, but it is clear that this date was included only to facilitate a future review of the changes that have been made in the operation of the program as a result of this legislation, and to provide for a convenient means for assessing the growth and development of this important SBA program. Frankly, there are areas that will need periodic monitoring by the Congress.

I want to take this opportunity to thank the chairman of the Senate Small Business Committee, Senator WEICKER, for his leadership in this program during its creation and in the oversight phase. I also want to thank my successor as the ranking Democratic member on the Small Business Committee, Senator BUMPERS, for facilitating the extension of ths important program and for his guidance and leadership in working out the conference agreement. Others on the Small Business Committee, including my friends from Kentucky [Mr. HUDDLESTON] and Massachusetts [Mr. TSONGAS] have outstanding and varied SBDC programs in their States, and both Senators have contributed significantly over the years to the growth and development of this small business development center program.

Mr. President, I urge the Senate to adopt the conference report.

The PRESIDING OFFICER. The question is on agreeing to the conference report.

The conference report was agreed to.

Mr. BAKER. Mr. President, I move to reconsider the vote by which the conference report was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER INDEFINITELY POSTPONING CERTAIN ITEMS

Mr. BAKER. Mr. President, may I say to the minority leader that the following items are available to be indefinitely postponed. Calendar 132, which is S. 1117; Calendar 567, House Concurrent Resolution 168; Calendar 735, which is S. 2522; Calendar 843, Senate Resolution 329; Calendar 876, which is S. 2584; and S. 1037, which is not on the calendar, but which is at the desk.

If he has no objection, I will make that request now en bloc.

Mr. BYRD. Very well.

Mr. President, there is no objection on this side, with the exception of one calendar order and that is calendar order No. 843, which the distinguished majority leader mentioned.

Mr. BAKER. Very well, Mr. President, then I ask unanimous consent that the items just listed, with the exception of Calendar 843, be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE CALENDAR

Mr. BAKER. Mr. President, I am advised that certain items may be cleared on today's executive calendar.

Could I inquire of the minority leader if he is prepared to consider any of the items on today's executive calendar by unanimous consent?

Mr. BYRD. Mr. President, the following calendar orders have been OK'd on this side: Calendar Order No. 707 and Calendar Order No. 928, and that completes the list.

Mr. BAKER. Mr. President, I thank the minority leader.

EXECUTIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate go into executive session now for the purpose of considering the two nominations just identified.

There being no objection, the Senate proceeded to the consideration of executive business.

The PRESIDING OFFICER. The first nominations will be stated.

31-059 O-87-31 (Pt. 16)

NATIONAL SCIENCE FOUNDATION

The legislative clerk read the nomination of Erich Bloch, of New York, to be Director of the National Science Foundation.

Mr. KENNEDY. Mr. President, I bring to the attention of my colleagues the pending nomination of Erich Bloch for Director of the National Science Foundation. Mr. Bloch is eminently qualified to serve as the Director of our Nation's leading science agency, having distinguished himself in the field of computer technology. He presently serves as a vice president of technical personnel development at IBM.

Mr. President, I bring to the attention of my colleagues this nomination because of the pending departure of Dr. Edward Knapp from the Director's post. Without deliberate action on our part to fill the Director's post at NSF there will be a serious void in the leadership at this important agency.

I urge the leadership and my colleagues to consider immediate action on this important nomination.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

DEPARTMENT OF JUSTICE

The legislative clerk read the nomination of Harold J. Lezar, Jr., of Texas, to be an Assistant Attorney General.

The PRESIDING OFFICER. Without objection, the nomination is considered and confirmed.

Mr. BAKER. Mr. President, I move to reconsider the votes by which the nominations were confirmed.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAKER. Mr. President, I ask unanimous consent that the President be immediately notified of the confirmation of these nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BAKER. Mr. President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

100 HOURS OF SERVICE AS THE PRESIDING OFFICER.

Mr. BAKER. Mr. President, it has been brought to my attention that the distinguished occupant of the Chair, the Senator from Mississippi [Mr. COCHRAN] has a few moments ago completed his 100th hour of service as the Presiding Officer of the Senate. I congratulate the Senator from Mississippi for that accomplishment.

I have often remarked that what little I know about procedure I either learned from the present minority leader or sitting in the chair and watching.

It is a valuable experience and one that I thoroughly enjoyed when I had the opportunity to do that.

Mr. President, I congratulate the Senator from Mississippi for his good work, and I wish him well in the next 100 hours of duty that he may preside over the Senate.

Mr. President, that completes my list of items for today.

Does the minority leader have anything else to address to the Senate?

Mr. BYRD. Mr. President, I thank the majority leader. I do not.

PROGRAM

Mr. BAKER. Mr. President, when the Senate completes its business today it will stand in recess until 10:30 a.m. tomorrow.

After the recognition of the two leaders under the standing order, two Senators will be recognized on special orders to be followed by a period for the transaction of routine morning business until the hour of 12 noon.

At 12 noon the Senate will stand in recess until the hour of 2 p.m. At the hour of 2 p.m. the Senate will turn either to the consideration of the pending motion to waive certain provisions of the Budget Act with respect to the agricultural appropriations bill or the supplemental appropriations bill and matters appurtenant thereto, or the small business spare parts bill under the time limitation entered into today.

It is not anticipated that tomorrow will be a late day, but I do anticipate that it will be a full day.

Senators should be on notice, however, that any day this week may be a late day, since this is the final week before the scheduled recess over until after the Labor Day recess and prior to the Republican National Convention.

DEATH OF REPRESENTATIVE CARL PERKINS OF KENTUCKY

Mr. BAKER. Mr. President, I send to the desk a resolution in respect to our late colleague, Representative CARL PERKINS of Kentucky, and ask for its immediate consideration.

The PRESIDING OFFICER. The resolution will be stated by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 428) relative to the death of Representative CARL PERKINS of Kentucky.

Resolved, That the Senate has heard with profound sorrow the announcement of the death of the Honorable Carl Perkins, late a Representative from the State of Kentucky.

Resolved, That the Secretary communicate these resolutions to the House of Representatives and transmit an enrolled copy thereof to the family of the deceased.

Resolved, That when the Senate recesses today, it recess as a further mark of respect to the memory of the deceased Representative.

Without objection, the Senate proceeded to consider the resolution.

Mr. BAKER. Mr. President, it was with deep sorrow that I learned of the death of our colleague in the House of Representatives, CARL PERKINS.

This native son of eastern Kentucky compiled a legislative record that stands as a testimony to his 33 years of service. Taking over as chairman of the House Education and Labor Committee in 1967, he managed large pieces of then-President Lyndon Johnson's antipoverty program. He earned the label of being a champion of social welfare legislation, including job training and school lunch programs.

Despite his perpetual grin and soft manner and Kentucky twang, CARL PERKINS stood tall as a man who knew how to get a job done. He considered his greatest legislative triumphs to be the Vocational Education Act of 1963, the Elementary and Secondary Education Act of 1965, and the black lung benefits in the Coal Mine Health and Safety Act of 1969.

One of his last legislative initiatives was the House-passed bill to allow student religious groups to meet in public schools.

We all mourn the loss of CARL PERKINS. His absence will be greatly felt in both his home State of Kentucky and in the country as a whole.

KENTUCKY HAS LOST A GIANT

Mr. FORD. Mr. President, Kentucky has lost a giant.

Congressman CARL DEWEY PERKINS, who represented the people of Kentucky's Seventh District in the U.S. House of Representatives since his election in 1948, died August 3 as he was returning home to his beloved Kentucky.

It would be hard for me to exaggerate the impact this man has had on Congress, on Kentucky, and on our Nation as a whole. As chairman of the House Education and Labor Committee, Congressman PERKINS was responsible—sometimes more than any other person—for some of the most progressive legislation our Nation has seen since the New Deal. He wrote the Vocational Education Act of 1963. He was a key force behind the Elementary and Secondary Education Act of 1965, which created remedial help for disadvantaged children and provided aid for school libraries. He was one of the fathers of the Appalachian Regional Commission, which has helped some of the poorest sections of eastern Kentucky and other States obtain badly needed hospitals and roads. A recent news story aptly described CARL PER-

KINS as a "field general in the war on poverty."

But beyond his legislative achievements, CARL PERKINS never forgot his roots. He was a mountain man, in the finest sense of the word. He returned, at every opportunity, to his farm in the mountains of eastern Kentucky. And he preferred to drive the backroads alone, talking with "my people," as he affectionately called his constituents.

It has been frequently noted that Congressman PERKINS had remained a Member of the House of Representatives so long that only three sitting Representatives had more seniority than he. But I submit, Mr. President, that CARL PERKINS' greatest achievement was not his longevity, but his ability to serve his constituents effectively while also making a mark as an outstanding national legislator. He had a vision of America—but he never let his view of the folks back home grow dim.

CARL PERKINS' death has left a void that will be difficult, if not impossible, to fill. But his fight to end poverty in Kentucky and elsewhere will never be forgotten.

Mr. DODD. Mr. President, I rise to pay tribute to a great friend and colleague, Representative CARL PERKINS of Kentucky.

I became acquainted and worked with CARL PERKINS during my tenure in the House of Representatives from 1974 to 1980. More recently, I testified before the House Subcommittee on Elementary, Secondary, and Vocational Education, which Congressman PERKINS chaired for 17 years, in an effort to provide adequate support for quality science and mathematics education throughout the Nation.

CARL PERKINS was a staunch advocate of education and social reform for many years. He was, for example, 1 of 11 Southern Democrats who voted for the Civil Rights Act of 1964. Although this genteel "country lawyer" was perceived by many to be laid back and a soft touch, few legislators have equaled his skill in managing and promoting legislation.

In 1967, for example, as chairman of the House Education and Labor Committee, he was ultimately responsible for the passage of the majority of President Johnson's "war on poverty" programs.

Perhaps one reason for his continued dedication to equality and reform was his rural teaching experience where he, with one other associate, was responsible for the education of 90 students, all for the sum of $59.60 a month.

Even after the Johnson era, this education and social pioneer continued to support programs such as child care and nutrition, aid for public libraries, adult education, vocational education, job training programs, and more recently, legislation to permit student religious groups to meet in public schools.

CARL PERKINS will be missed in the Congress of the United States. He has left a legacy and example of commitment, hard work, and dedication for Members of both Houses to admire and respect. We will miss this great leader. We can, however, become better legislators because of our association with him.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution (S. Res. 428) was unanimously agreed to.

RECESS UNTIL 10:30 A.M. TOMORROW

Mr. BAKER. Mr. President, if no other Senator is seeking recognition and if the minority leader has nothing further, and I see his indication that he does not, I move, in accordance with the previous order, and pursuant to Senate Resolution 428, as a further mark of respect to the memory of the deceased Hon. CARL PERKINS, late a Representative from the State of Kentucky, that the Senate stand in recess until 10:30 a.m. tomorrow.

The motion was agreed to; and at 6:24 p.m., the Senate recessed until tomorrow, Tuesday, August 7, 1984, at 10:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate August 6, 1984:

NATIONAL SCIENCE FOUNDATION

Erich Bloch, of New York, to be Director of the National Science Foundation for a term of 6 years.

The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

DEPARTMENT OF JUSTICE

Harold J. Lezar, Jr., of Texas, to be an Assistant Attorney General.